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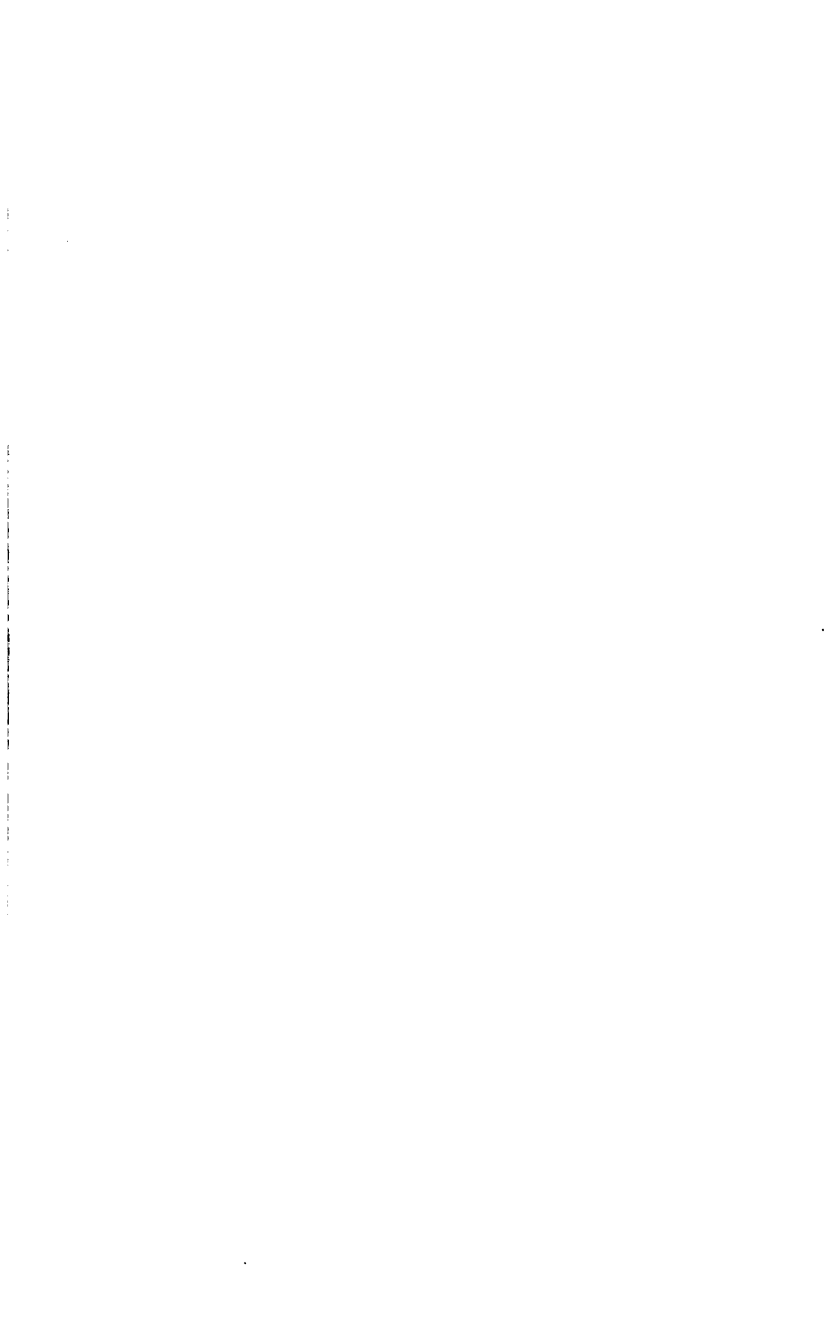
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THE

PRINCIPLES OF ARGUMENTATION

BY

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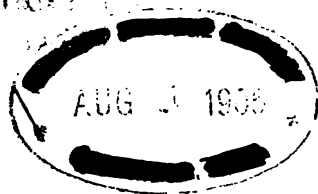


TO

**Adams Sherman Bill**

BOYLSTON PROFESSOR OF RHETORIC AND ORATORY  
IN  
HARVARD COLLEGE

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## PREFACE.

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WHEN a man tries to interest in Argumentation a class of college students who have never studied the subject, he meets at once several difficulties. Most of the students will regard it as too special a matter to be of any use to them. A few who are hoping to lead literary lives will be tolerant because they feel that, though Argumentation is far less important to them than Narration, Description, or Exposition, a knowledge of all kinds of writing is their province, and hence they should understand Argumentation, unimportant as it is. A small portion of the class, those students who look forward to a career in the Law, will welcome the work. That is, there is an almost universal idea among college students that Argumentation is a study that can have real usefulness only for the lawyer or those who in their careers may be called into public controversy. For such students Argumentation is synonymous with a study of Formal Logic on the one hand, and of rules of evidence and legal procedure on the other. Naturally they dread a subject that promises to be so dry and of so little general use. Nor are college students the only persons who seem to think that Argumentation

means these two things. It seems to be a wide-spread idea among many classes of men. For this reason, the aim of this book is to point out clearly that there is argumentation — the most important kind of all, since it is fundamental to all others — which exists independent of the rules which have been formulated to govern the handling of evidence in courts, independent of legal procedure, and which can be understood without any study of books of Formal Logic. It is the argumentation of everyday life, the principles of which every intelligent man should understand. These principles the following pages try to expound simply and interestingly. If this book were my first attempt to teach Argumentation on this basis I should print it with trepidation, but in some years of teaching with this idea of Argumentation constantly in view I have seen indifference to the subject, even intolerance, among my students, change to growing interest — a change that, by the testimony of both the students and those who have assisted in the work, is due to the basing of the teaching on just this idea.

This book is intended, then, to give a student a training in Argumentation, which must precede his study of the special rules of procedure belonging to courts, the rules that there govern the handling of evidence; which may interest him in a later study of the laws of logic that underlie all thinking, — in Formal Logic, — if he wishes. It is offered as a more elaborate treatise than that which in most books on Rhetoric space permits. It is, in a sense, introductory to such a book as Professor Robinson's

*Forensic Oratory*, which is written distinctly for the young lawyer.

That throughout this book written Argumentation is chiefly considered is not because the following pages were originally developed before classes which were busy only with written argumentative work. It is because I believe that for the speaker as well as the writer the principles which lead to convincingness merely — not to persuasion — are practically the same ; and, most important of all, because I am convinced that the easiest, the most rapid method for a speaker to acquire good form, and an ability to handle evidence well, is for him to write out his work until he has mastered the principles in this book which lead to convincingness merely. It is a sad fact that the so-called extemporaneous speakers, though often admirable in persuasion, are usually far less successful in conviction, because their work lacks form and a skillful handling of evidence. These two powers can come only from constant practice and careful criticism by one's self and others of the results. A preliminary writing out of the arguments offers the best means for this growth through criticism. Little by little as a student becomes more accustomed to speaking, readier on his feet, he can speak from full notes merely ; then from a full brief ; then from a very slight brief ; eventually he may perhaps be able to speak without any brief. Doubtless the speaker who seems independent of his notes, or at least of his written discourse, has most control of his audience, but such independence, combined with good form and con-

vincingness, is an acquired power. The masters of Argumentation have not been ashamed to attain by the method just explained their final mastery of their art.

The principles set forth in this book, the queries answered, I have so often talked over with the assistants who, at Harvard and Wellesley, have aided me in my work, that I feel the results here given are as much theirs as mine. I owe so much in the past, also, to their enthusiasm and their intelligent devotion to their work, that I cannot refrain from recognizing my indebtedness. For valuable suggestions while this book has been going through the press and for reading of the proofs I wish in particular to thank Assistant-Professor S. C. Hart of Wellesley College, and Mr. F. G. Caffey, of Montgomery, Alabama. For the classification of definitions used on pp. 54-59 I am indebted to Professor Genung in his *Practical Elements of Rhetoric*.

CAMBRIDGE,

Sept. 20, 1895.

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# ARGUMENTATION.

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## CHAPTER I.

### THE NATURE OF ARGUMENTATION.

**A**RGUMENTATION is the art of producing in the mind of some one else a belief in the ideas which the speaker or writer wishes the hearer or reader to accept. This result may be gained in either of two ways: (1) by convincing the hearer or reader, through his intellect, by the cogency of the reasoning advanced; or (2) by bringing out forcibly that in the ideas which will stir the emotions of the hearer or reader sufficiently to make him act as the speaker or writer desires. He who uses in his argumentation only the appeal to the intellect—depends for his success solely on his logical strength, on the clearness, the force, and the convincingness of his statement of his ideas—employs the method of *Conviction* only, and writes pure argument so-called. He who depends entirely on finding in his material what will excite the emotions of his hearer or reader uses only the method of *Persuasion*.

The simplest illustration of argumentation that is pure conviction is the proof of some theorem of Geometry, as, for instance, that the square of the hypotenuse of a right-angled triangle is equal to the sum of the squares of the

other two sides. All the proof adduced appeals solely to the intellect, and rests for its force on ideas already found to be true, or, as they are developed, felt at once to be true. This kind of demonstration of the truth of a statement, however, is hardly argumentation in the sense in which it is used here. The following extract from Lord Mansfield's defense of Allan Evans<sup>1</sup> is a better illustration of the argumentation that appeals to the intellect only:

"My Lords, the meaning of this maxim, 'that a man shall not disable himself,' is solely this: that a man shall not disable himself by his own wilful crime; and such a disability the law will not allow him to plead. If a man contracts to sell an estate to any person upon certain terms at such a time, and in the meantime he sells it to another, he shall not be allowed to say, 'Sir, I cannot fulfil my contract; it is out of my power; I have sold my estate to another.' Such a plea would be no bar to an action, because the act of his selling it

<sup>1</sup> "The city of London was in want of a new mansion-house for the Lord Mayor, and resolved to build one on a scale of becoming magnificence. But, as the expense would be great, some ingenious Churchmen devised a plan for extorting a large part of the money out of the Dissenters, who had for a number of years been growing in business and property, under the protection of the Toleration Act. The mode was this: A by-law of the city was passed imposing a fine of £600 on any person who should be elected as sheriff and decline to serve. Some wealthy individual was then taken from the dissenting body, and by a concert among the initiated was chosen to the office of sheriff. Of course, he was not expected to serve, for the Test and Corporation Act rendered him incapable. He was, therefore, compelled to decline; and was then fined £600 under a by-law framed for the very purpose of extorting this money. . . . At length, Allan Evans, a man of spirit, who had been selected as a victim, resolved to try the question. He refused to pay the fine, and was sued in the Sheriff's Court." By appeals the case was brought before the House of Lords. In the House, Lord Mansfield spoke in behalf of Evans. See *Select British Eloquence*, Goodrich.

to another is the very breach of contract. So, likewise, a man who hath promised marriage to one lady, and afterwards married another, cannot plead in bar of a prosecution from the first lady that he is already married, because his marrying the second lady is the very breach of promise to the first. A man shall not be allowed to plead that he was drunk in bar of a criminal prosecution, though perhaps he was at the time as incapable of the exercise of reason as if he had been insane, because his drunkenness was itself a crime. He shall not be allowed to excuse one crime by another. The Roman soldier, who cut off his thumbs, was not suffered to plead his disability for the service to procure his dismissal with impunity, because his incapacity was designedly brought on him by his own wilful fault.

“When it was said, therefore, that a man cannot plead his crime in excuse for not doing what he is by law required to do, it only amounts to this, that he cannot plead in excuse what, when pleaded, *is* no excuse; but there is not in this the shadow of an objection to his pleading what is an excuse — pleading a legal disqualification. If he is nominated to be a justice of the peace, he may say, ‘I cannot be a justice of the peace, for I have not a hundred pounds a year.’ In like manner, a Dissenter may plead, ‘I have not qualified, and I cannot qualify, and am not obliged to qualify; and you have no right to fine me for not serving.’”<sup>1</sup>

This whole speech is almost free from attempts to move the emotions of the hearers — is, practically, a specimen of the method of pure conviction. Mills’s essay on *The Subjection of Women* is an illustration of the pure conviction that does not use persuasion.

Pure persuasion that arouses the emotions only, without appealing to the intellect, is shown by this

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 31, 32.

peroration of Grattan's speech on the "Declaration of Irish Rights":<sup>1</sup>

"Hereafter, when these things shall be history, your age of thralldom and poverty, your sudden resurrection, commercial redress, and miraculous armament, shall the historian stop at liberty and observe — that here the principal men among us fell into mimic trances of gratitude — they were awed by a weak ministry, and bribed by an empty treasury — and when liberty was within their grasp, and the temple opened her folding doors, and the arms of the people clanged, and the zeal of the nation urged and encouraged them on, that they fell down, and were prostituted at the threshold.

"I might, as a constituent, come to your bar and demand my liberty. I do call upon you, by the laws of the land and their violation, by the instruction of eighteen counties, by the arms, inspiration, and providence of the present moment, tell us the rule by which we shall go — assert the law of Ireland — declare the liberty of the land.

"I will not be answered by a public lie in the shape of an amendment; neither, speaking for the subject's freedom, am I to hear of faction. I wish for nothing but to breathe, in this our island, in common with my fellow-subjects, the air of liberty. I have no ambition, unless it be the ambition to break your chain, and to contemplate your glory. I never will be satisfied so long as the meanest cottager in Ireland has a

<sup>1</sup> In 1780, Irish nationalism had been "greatly stirred by such writers as Lucas, Molyneux, and Swift; by the entry of Flood and Grattan into the Irish House of Commons; by the successful revolt of the American colonies; and by the formation of the volunteers, whose resolutions gave substantial aid to Grattan. Thus fortified, Grattan moved in the Irish Parliament, on April 19, 1780: 'That the King's Most Excellent Majesty, and the Lords and Commons of Ireland, are the only power competent to make laws to bind Ireland.'" In support of this motion he made the speech, a part of which is quoted above. See Camelot Series: *Political Orations*.

link of the British chain clanking to his rags; he may be naked, he shall not be in iron; and I do see the time is at hand, the spirit is gone forth, the declaration is planted; and though great men should apostatise, yet the cause will live; and though the public speaker should die, yet the immortal fire shall outlast the organ which conveyed it, and the breath of liberty, like the word of the holy man, will not die with the prophet, but survive him.”<sup>1</sup>

The whole speech of Grattan uses the method of persuasion more than that of conviction. A good but rather trite illustration of pure persuasion is the speech of Antony over the body of Caesar. *Julius Caesar*, Act III., Sc. 2.

#### THE WEAKNESS OF PURE CONVICTION OR PURE PERSUASION.

A little thought on the distinctions just made will show that each of the two methods, *Conviction* and *Persuasion*, is by itself faulty—that each is the complement of the other. He who appeals to the intellect only—simply tries to convince, leaving the feelings, the emotions, untouched—runs the risk (1) of being dull and dry, for his work will lack warmth and color; and (2) of failing to produce any action on the part of the hearer or reader, for accepting a belief as true does not always mean to act promptly or steadily on that idea. He who tries only to persuade runs the dangers of all excited action: (1) that it is liable to cease as suddenly as it began, leaving no principle of conduct behind; and (2) is liable at any

<sup>1</sup> Camelot Series: *Political Orations*, pp. 136, 137.

moment to disappear before a clear and convincing statement of the reasons why such conduct is ill-judged.

There is little need to point out the dryness, except to men of mathematical minds, of the geometrical demonstration which illustrated pure conviction. When, too, we compare the extract from Lord Mansfield with that from Grattan, certainly we see that the latter with its fire and daring is more vivid, more entertaining, than the former. Hearers of Lord Mansfield might well have admitted the truth of his words, and yet have failed, at the next opportunity, to apply his conclusions; under the spur of Grattan's rousing speech, does inactivity seem possible? Yet, on the other hand, action resulting from words like those of Grattan must be given an immediate end, — a line of conduct, — or it will fade for lack of direction. Before, too, a forcible statement of the British view of the case, it might readily weaken, for Grattan does not convince our brains that he is right, — he simply stirs our hearts. Certainly the first part of the speech of Antony is vivid and stirring enough, and Antony takes care not to cease until the mob has found an object upon which to vent its excitement; but had Brutus, instead of balancing clauses and dealing in vague statements as to Caesar's wrong-doing, arraigned him clearly and succinctly, showing cogently wherein his power seemed dangerous to Rome, Antony's words would have lost a large part of their force. Antony, with nothing against him except vague charges, skillfully turned away from these, and gave all his time to stirring the hearts of his hearers by bringing out whatever in the life and fate of Caesar could move their sympathies.

THE INTERRELATION OF CONVICTION AND PERSUASION  
IN ARGUMENTATION.

Each of the two methods, Conviction and Persuasion, is, then, the complement of the other, and ideal argumentation would combine perfection of reasoning, complete convincingness, with perfection of persuasive power — excitement of just the right emotions to just the right extent to obtain the ends desired by the speaker or writer. Or, to put the matter a little differently, such argumentation would be a perfect blending of arguments that could not fail to convince the hearer or reader, and subtle expression or suggestion of the way in which the ideas to be accepted as true should appeal to his emotions. Even, however, as we but rarely find argumentation that uses only the method of Conviction, or only the method of Persuasion, so this perfect union of the two methods is exceedingly rare. The bulk of argumentation lies between the two extremes — Conviction only and Persuasion only — in a more or less successful mingling of the two.

A fine specimen of a blending of the methods of conviction and persuasion is Henry Ward Beecher's "Liverpool Speech" in behalf of the Northern party in the Civil War.<sup>1</sup> It appeals both to the intellect and the emotions, though more to the latter than to the former. A blending of the two methods, with the emphasis on conviction, but with such subtle handling of the persuasion that it helps to conviction even as it persuades, is Lord Erskine's "Defence of Lord George Gordon."<sup>2</sup>

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 154-178.

<sup>2</sup> *Idem*, pp. 86-153. For the skillful handling of persuasion, see pp. 90, 94, 130, 151.

THE RELATION OF ARGUMENTATION TO METHODS OF  
ARGUING IN LAW COURTS.

It may, perhaps, help toward a clearer understanding of just what Argumentation properly is if we distinguish it carefully from two subjects with which it is at times confounded : time-honored methods of procedure in courts and Formal Logic. Often, students of Rhetoric pause at the beginning of their study of Argumentation, saying that it can be of practical use only to a special class of men, to those who intend to make the law their vocation. This is really as illogical as if they hesitated to study Description (which "produces in the mind of the reader a picture of certain objects or persons") and Narration (which "gives an account of an event or a series of events"<sup>1</sup>) because these can be of use only to the novelist. In both cases the students limit to the class of men most conspicuously using the form in question a method of expression used hourly by millions of men of all races and climes. Any student of Description and Narration knows that the little child who stammeringly and in ill-chosen words tries to tell its nurse about some bird or animal which has aroused its interest ; the schoolboy writing home about a day at school, or some base-ball contest with a rival academy ; the friend describing some scene he has known, or recounting some adventure on his travels ; the overseer directing his men by a careful statement of how the work is to be done, or an account of the overcoming of the same difficulty at some past time ; — all unconsciously use the same methods

<sup>1</sup> These definitions are from *Introduction to Theme Writing*, J. B. Fletcher and G. R. Carpenter, p. 2.



of description and narration that the novelist, probably working more consciously, uses with greater ease and success. So, too, the child who tries to convince his nurse that he is right in not wishing to obey her command; the schoolboy who endeavors to induce his father to let him play on the school base-ball team; the man who seeks to persuade a friend to visit in his traveling these sights rather than others; the overseer who tries to make an obtuse workman see that only in a certain way can he successfully accomplish the task that has been set him;—all of these argue, though probably not so skillfully as does the lawyer in the courts. The students who hesitate to study Argumentation because it belongs as a method of expression especially to lawyers really mistake a species for the genus.

“Every issue in a cause [in law] presents two questions, either or both of which may be disputed. (1) What were the facts in which the controversy originated? (2) What are the rules of law by which, in view of these facts, the issue is to be determined?”<sup>1</sup> It will be seen that (1) is a matter of investigation, and that the success of the lawyer in it must depend on his ability to analyze keenly and to support so clearly and convincingly his belief as to what the facts are as to convince any rational being that it is correct. In what that is essential, however, does this argumentation differ from that of the child, the boy, the traveller, or the overseer of the illustrations? Each has tried to the best of his ability to see what are the facts in the case he wishes to present, and to convince his hearers of the truth of his ideas. The knowledge upon which all these different attempts, including that of the

<sup>1</sup> W. C. Robinson, *Forensic Oratory*, § 60.

lawyer, depend for success or failure, is of the universal laws of reasoning that apply in every language and in any place.

On the other hand, in (2), "What are the rules of law by which the issue is to be determined?" the lawyer makes use of his knowledge of special rules and conventions, not used by men universally, but only in the courts of his land. In the courts of other countries he would find other conventions, and the same case might need to be treated differently. "Many of the great principles of law require no proof. Embalmed in venerable and familiar maxims, they are deposited in the memories of all men, and these subsist as universal and impregnable ideas. Others, less important and familiar, are proved by the production of authorities, or are stated by the advocate subject to confirmation or correction by the court."<sup>1</sup> "A judge, when called upon to decide, or to aid a jury in deciding, whether, for example, a person be innocent or guilty of a murder, holds himself tied by rules of evidence, that is, precepts established either by Act of Parliament or by the practice of the courts, defining what is the kind of proof which a court of justice may receive for the determination of the questions laid before it."<sup>2</sup> An illustration of the first quotation is the maxim of the courts that a child under seven cannot commit a crime. A judge, in deciding what to do with a child under seven caught stealing, would start from this premise; a mere investigator would say, and rightly, that it is an interesting psychological question whether a child under seven can be guilty, that is,

<sup>1</sup> W. C. Robinson, *Forensic Oratory*, § 62.

<sup>2</sup> A. Dicey, *The Verdict*, p. 11.

responsible for his crime, and would investigate the particular case on its merits, disregarding the maxim of the courts. The second quotation may be illustrated as follows: the ruling of the courts is that hearsay evidence must be excluded, and in hearing a case, a judge would exclude that which presented itself. On the other hand, a mere investigator gathers all the evidence that he can find, hearsay and all other kinds, and endeavoring to assign to each bit its value, draws his conclusion as to the case in hand. In the division of a case made above by Professor Robinson, then, (1), deciding what are the facts in the case, depends wholly on the methods of reasoning that all men use; (2), deciding what are the rules of law by which the issue is to be determined, depends first on a knowledge of rules special to a small area, and secondly on an application of these rules to the facts by the universal methods of reasoning—for the lawyer must convince his hearers that the decisions he holds are applicable really apply. In other words, then, (2), the special knowledge necessary for a lawyer, depends upon, is surrounded by, knowledge of the universal methods of reasoning.

A complete treatise on Argumentation must, therefore, include a chapter on rules of law,—a huge chapter, since generations of men have built up a mass of rules for expediting business or increasing accuracy in the courts,—but it would be but a part of, and secondary to, a treatment of those principles upon which Argumentation universally depends.

The topic, "Was Aaron Burr guilty of treason?" furnishes an illustration of the distinctions just drawn. For a lawyer the case has two interests: (1) What are the

facts in the case; and (2) what are the rules by which these facts must be interpreted. He and an investigator will each work to find out the facts in the case, but the lawyer will work with the rules of courts as to the permissibility of hearsay evidence, of the testimony of witnesses closely allied to the prisoner, etc., in mind. For the investigator all of this evidence will be admissible if treated carefully. Moreover, the lawyer knows that by the laws of the country there must be, for conviction of treason, two witnesses to an overt act. Unless he can produce these two witnesses, the case will fail; indeed, it did fail because two witnesses to an overt act could not be found. The investigator is bound by no such law rules of the court. For him the question is one of moral guilt, and he will decide the question by the preponderance of evidence for or against Burr, whether there be one or two witnesses to an overt act of treason.

In brief, then, we see that the lawyer, in the most essential part of his work, but makes a business of using thoughtfully and cautiously the methods of reasoning which hourly millions of men, some carefully, some hastily, conform to or transgress. With the exception of the work he does in division (2), his methods are the same as those of a civil engineer trying to show that his subway plan for a city is better than a rival's; a college professor arguing as to the appearance of the Greek stage; Professor Huxley lecturing in New York in support of the theory of evolution; George William Curtis or Mr. Roosevelt pleading for Civil Service Reform; Dr. Koch or Dr. Pasteur endeavoring to establish the reliability or the usefulness of a new discovery in medicine. Moreover, his methods are at one with those of the man

who is not contending in debate or in writing against any opponent, but is trying to form an opinion in some matter important to him, is trying to make a correct judgment. To study all these methods is simply to examine how the rational being argues correctly, how he convinces and persuades his rational fellow-being to share his ideas with him. The laws which govern this universal argumentation we are to study.

### THE RELATION OF ARGUMENTATION TO LOGIC.

The misunderstanding that treats Argumentation as if it were little more than an application in everyday life of the rules of Formal Logic has not been infrequent in the past. Perhaps an examination of the component parts of a piece of argumentation will best show us the real relations of Argumentation, Logic, and Formal Logic.

Argumentation we have defined as the art of producing in the mind of some one else a belief in the ideas which the speaker or writer wishes the hearer or reader to accept. When we argue, we try to make a listener or reader believe that this or that is true, because for the reasons, *a, b, c*, it seems to us true, and because the special exciting interest, *d*, that the idea has for him, must stir him to act on the belief we are seeking to inculcate. Or, to put the matter concretely, we try to show that the appropriations of a particular River and Harbor Bill should not be decreased, because (*a*) all must admit that the appropriations may be divided into three classes: (1) those unquestionably needed, (2) those the necessity for which is disputed, (3) those for which there seems to

be no need (examples are given of each by the speaker); (b) because the rivers and harbors named in class (2) really, on examination with the audience, all seem to need the amounts appropriated; (c) because the rivers and harbors of the third class would to an entirely unprejudiced person seem to be well represented by the harbor of the town in which the address is made; and (d) (exciting cause) the audience knows the reasons why, though the appropriation may seem large to an outsider, every cent of it is needed for harbor repairs necessary to the life of the town. These reasons with which we support our belief are but thoughts, and all argumentation is an aggregation of reasonings, or varied processes of thought. Even, however, in the simplest reasoning some structure is involved, for we do not think at random, and it is evident that it may have been possible to examine these processes of thinking, to study their structure, and to derive rules of correct thinking therefrom.

This has been possible, and the result is called Logic, "the science of the laws of thought," or that which teaches us to know how to think correctly. Evidently, then, since "an art teaches us to do and a science to know,"<sup>1</sup> and by studying what we do in Argumentation we come to know the laws of thought, it is easy to draw the conclusions (1) that Argumentation is the art of which Logic is the science; and (2) that, since Formal Logic formulates the laws of thought, giving to each process or element of a process a name, Argumentation may be taught solely in terms of Formal Logic. But there are objections to each of these conclusions.

<sup>1</sup> This and the preceding definition are from Jevons's *Lessons in Logic*, p. 147.

## WHAT ARGUMENTATION INCLUDES BESIDES LOGIC.

1. *Persuasive Methods.*

In the first place, Argumentation consists in something more than mere reasoning. If we confine it to reasoning only, we have examined only the warp of the material, overlooking the woof. We convince by cogent reasoning, but we persuade—and we have seen that in good argumentation, Conviction and Persuasion are almost inextricably mingled—by study of our fellowmen and of what stirs emotion in them. Though we ourselves may reason in deciding that by appealing, in a particular case, to some carefully chosen emotions we shall get desired results, it is not primarily with logical processes that we are dealing here, but with the emotions. We are concerned now not with the laws that tell us what is convincing, what appeals to the brain with success, but with the laws that govern the emotions, that tell us how to appeal to the feelings of our audience without falling short of our desired result or losing forces that we shall not be able to control. The first concerns itself with men as thinking beings, the second with men as creatures of action.

The extract quoted from Grattan's speech<sup>1</sup> illustrates what has just been said. The peroration is, perhaps, the most effective part of his speech, yet it produces no arguments, it merely appeals to the emotions. The knowledge that guided the speaker in this part of his work was not of Logic, of sound reasoning, but of the hopes, the fears, the ambitions stirring in the hearts of Irishmen at the time, and of the ways in which he could

<sup>1</sup> See pp. 4, 5.

increase the hopes and ambitions and lessen the fears. To say that he thought out before speaking the emotions to which he should appeal in his peroration, would be, probably, untrue, for the impetus of his great subject and his strong emotion probably led him into it almost unconsciously. A better instance of the persuasion that has behind it consideration of the emotions that may best be appealed to and may best be disregarded is Beecher's "Liverpool Speech." Beecher, knowing that in the English headquarters of the Southern sympathizers, Liverpool, a determined and desperate effort would be made to prevent the delivery of his speech, probably chose with some care the emotions to which he appealed in his introduction. Some general plan for it he probably had before he came into the hall, but it evidently took permanent shape only as he watched the uproarious audience. For the first few minutes after the uproar that greeted his appearance decreased enough to allow him to speak, he simply tried to win a hearing by making his audience feel that he was undaunted, determined, sincere, and by appealing to their love, as Englishmen, of fair play. He chose the emotions so well, he appealed to them so skillfully, that he won a hearing.<sup>1</sup>

## 2. *The Place of Rhetoric in Argumentation.*

Moreover, a pleader, whatever his cause, must not only reason correctly and understand how to stir the emotions of his audience, he must also be able so to arrange his material that all of his correctly constructed arguments, all of his appeals, direct or indirect, to the emotions of

<sup>1</sup> *Specimens of Argumentation*, pp. 156-158.



the hearers or readers are presented clearly, forcibly, and even with elegance. A set of arguments, each correctly constructed in itself, appeals that mean a keen insight into the causes of action in our fellowmen, may be so confusingly stated, so badly placed, in the whole argumentation, that the work fails. Logic is concerned with the internal structure of each argument; Persuasion with that in the material which will stir the emotions of an audience; Argumentation is concerned with both of these, and with the successful presentation to an audience of the correctly constructed arguments and well selected appeals. In other words, a successful student of Argumentation must have mastered the rules that Rhetoric, the "art of telling some one else in words exactly what you mean to say,"<sup>1</sup> has to give him.

Here is the first half of a forensic of a college student which shows by its failures how important in Argumentation is the work of Rhetoric:

"WAS THE COURSE OF THE BEACONSFIELD MINISTRY IN THE  
EASTERN QUESTION ADVANTAGEOUS TO ENGLAND?"

"In 1876 Bulgaria declared war against Turkey, and it was in this war that Turkey committed the horrible massacres known as the 'Bulgarian Atrocities.'

"The war would never have been begun between Turkey and Bulgaria had it not been for Turkish misrule, which was well known by other countries as well as by Bulgaria. Servia and Montenegro were left alone to fight with Turkey, after the other states which belonged to the 'confederacy' were obliged to back out for want of supplies. Of course, these two states

<sup>1</sup> G. R. Carpenter, *Exercises in Rhetoric and English Composition*, p. 1. Willard Small, Boston, 1893.

could not carry on war with Turkey on equal footing, and soon a treaty for peace was made.

"Now Russia put herself forward, and the Czar demanded a treaty which much favored Bulgaria. At this point Beaconsfield recognized the fact that Russia wanted to get Turkey into her own power, and thereby enter Constantinople, which would give Russia the control of the Black Sea. Therefore Beaconsfield used all the influence he could to preserve peace between Russia and Turkey.

"By this time Russia had advanced her forces as far as Adrianople.

"Russia claimed, as she always had, that she was looking after the interests of the Christian subjects of the Sultan.

"Now this is certainly a good, charitable, and commendable purpose, but it is certain that there was a deeper motive than this which made Russia so anxious to interfere with Turkey, namely, 'Russia wanted control of Constantinople.'

"Beaconsfield understood this to be Russia's object, and he immediately ordered troops to be placed under arms, ready to attack Russia at any moment; and he told Russia that if she advanced further than Adrianople he would consider it a *casus belli*.

"Beaconsfield wanted to hold a conference of the Great Powers of Europe, whose decision concerning Turkey should be final. But Russia would not agree to any such treaty unless certain agreements, which were favorable to Russia, made about a year before, should be adhered to. Beaconsfield, on the other hand, would not listen to Russia's demand, and, for a time, it seemed as though war was certain. But by a private consultation with Russia, Beaconsfield got Russia to agree to a treaty at Berlin." Etc., etc.

In this forensic, though the writer has evidently read a little on his subject and has in his possession the causes giving rise to the question and the idea that is of most

importance for his side of the case — that Russia wished to gain control of Constantinople and the Black Sea — we do not understand, because he has neglected all the rules for clearness, force, and elegance, the origin of the question, exactly what is in dispute, or the relative importance of the ideas advanced and their connections.

### 3. *The Place of Rules of Evidence in Argumentation.*

Still other work there is, too, in Argumentation. When a man argues he produces reasons for his beliefs. These reasons may depend on his own thinking or experience, or on the thinking or experience of some one else. It is evident that when we are asked to consider what the speaker or writer or his witness has thought, we can test the argument by laws of reasoning, of logic; but when, as is often the case, the question is not the correctness of a logical process in itself, but simply the reliability of the writer or witness, — is there any reason why he cannot be trusted as to the facts from which he reasons, — plainly tests not merely logical must be applied. Such tests for determining the reliability of a witness there are, and every successful writer of argumentation must know these.

Lord Erskine, in his defense of Lord George Gordon, meeting the objection of the Solicitor General, that “fury supplies arms” to gatherings without weapons, and that, therefore, even when unarmed, an excited gathering may be treasonable, used not only the evidence of his own thought in showing the distinction between the case cited by the Solicitor General and that of Lord Gordon, but also the thought of Justices Foster and Coke, and the

experience of Damaree, who had been arrested for treason.<sup>1</sup> As far as he used the thoughts of other men, he could test their reasoning by laws of logic; but when he used, not the conclusions that men drew from these experiences, but merely their statement of what the experiences were, he could no longer apply tests of logic, he must, in questioning whether they could or would tell what they really saw or did, test character, will, and intellect. For these the tests must be very different. When he examined the evidence of William Hay against Lord Gordon it was a test of Hay's desire to speak the truth that he chiefly applied.<sup>2</sup> We must learn, then, not only how to attack incorrect drawing of conclusions from data given, but how to test whether the data are correctly reported.

#### THE RELATIONS OF THE FOUR DIVISIONS.

Clearly, then, knowledge how to distinguish good from bad reasoning, Logic, — the formulation of which with carefully selected names for all the processes and their elements constitutes Formal Logic, — is but the warp which runs through the cloth of Argumentation; and knowledge of the rules of Persuasion, of Rhetoric, and of Evidence are the threads of the woof. Even as the warp mingles with the woof, so it is by careful reasoning that each of these special sets of rules is applied to the case in hand. Therefore, Argumentation means much more than the mere application of the laws of Logic.

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 100–103.

<sup>2</sup> *Idem*, pp. 111–115.

## WHY A KNOWLEDGE OF FORMAL LOGIC IS NOT ESSENTIAL TO CAREFUL STUDY OF ARGUMENTATION.

*The First Reason.*— Since, then, Logic is but the warp of Argumentation, it hardly seems probable that to teach it only in terms of Formal Logic will be satisfactory. That would mean neglect of all that makes the woof. But there are other objections to considering preliminary study of Formal Logic as an essential to good argumentation. You cannot, of course, study why some reasoning is good and some bad without getting a knowledge of Logic,<sup>1</sup> and, therefore, it is an important part of all argumentation; but you can study why some reasoning is good and some bad with but very slight use of the technical names and symbols that have been agreed upon as convenient by scholars of Logic for its own sake, as a science. That is, with the nomenclature, the distinctions, of the scientific formulation of the laws of reasoning, a student of Argumentation needs to trouble himself but little. Indeed, there are strong objections to his preparing himself by study of Formal Logic. The first reason Professor Sidgwick states as follows :

“The subject that is usually taught as Logic [in this book called Formal Logic] gives little or no help in regard to the actual difficulties of reasoning, or as to the sources of the more plausible kinds of error and verbal confusion. As a historical study it may have great value — for the few who have time to pursue it as a part of the general history of philosophy. As a

<sup>1</sup> “Logic is all about arguments, and helps us to distinguish sound arguments from unsound ones.” A. Sidgwick, *The Process of Argument*, p. 2. A. & C. Black, 1893.

mental exercise it may or may not be as good as a game of chess. But for the purpose here kept in view — of gaining some insight into the distinction between sound and unsound inference<sup>1</sup> — it is an open question whether the good or the harm it does is the greater. Taken as a whole, it is an accumulation of odds and ends that have survived from various outgrown philosophies; and so far as it does deal with the distinction between sound and unsound inferences, it introduces an artificial simplification of the difficulties in too unyielding a form. For it tells us only what the soundness of inferences depends upon when we assume that the words in which they are expressed are free from ambiguity. In actual inferences this assumption is never strictly in accordance with the facts, and is least in accordance with them when the soundness of the inference is most debatable. That is the chief reason why an appeal to Syllogistic Logic is generally so unconvincing. Now that the direct inquiry into Nature is open to almost every

<sup>1</sup> "The formation of a belief or opinion, not as directly observed, but as constrained by observations made of other matters or beliefs already adopted; also the system of propositions or proofs connected together by such an act into a proposition." *Century Dictionary*. When we make the statement, "All sixpences are coined at Tower Hill" (see Jevons's *Primer of Logic*, p. 53) we reached this opinion by inference, for it is not made from personal observation of the coining of all the coins, but from knowledge of two other matters: that all English silver coins are coined at Tower Hill; and that all sixpences are English silver coins. It will be seen, as our definition of an inference stated, that we have a system of two propositions (sentences) which produce a third. That is, we have a syllogism. "The essential parts of a 'syllogism' are short sentences (or assertions) of which one is a 'conclusion' from the other two, these others being called the 'premises.' The relation between premises and conclusions is such that the latter is contained (implied or involved) in the meaning of the former when these are taken together. But it is also essential to a syllogism that one of the premises shall be a generalization — the assertion of a general rule — while the other premises must connect the conclusion with it, as a special case under that general rule." Sidgwick, pp. 219, 220. The syllogism used above from Jevons's *Primer of Logic* illustrates all of these distinctions.

one, almost every one has begun to learn that sharp-cut words are traps for the unwary. A Syllogism can always be blocked by refusing to admit the truth of a premise;<sup>1</sup> and in these times no special study of the forms of the Syllogism is needed to show us (in practice, at any rate) that the easiest and most effective way to do this is to criticise the words in which it is expressed. When the conclusion is disputable, there is seldom any difficulty in finding some want of definiteness in the premises, so that they can only combine to form a conclusion when one of them is interpreted in a sense which makes it untrue. To raise this objection, in however untechnical language, is to tell the syllogistic logician that his simple process is not yet available. The real difficulty of the question has first to be settled, and then those who care to do so may put the reasoning into syllogistic form.”<sup>2</sup>

These words of Professor Sidgwick but emphasize what has already been said about the fourfold work of Argumentation. When he states that we may always block a syllogism by denying the truth of a premise, he but says that from our knowledge of what makes good and bad evidence, not in its reasoning, but in its report of the so-called facts from which the reasoning starts, we may decide that the important premise cannot be accepted. Here we work not in Logic but in the rules of evidence which teach us to know whether a witness is reliable, intelligent, or prejudiced. When, too, he says that we can often best determine what is the matter with a premise by examining the words in which it is phrased,

<sup>1</sup> If, for instance, any one denies, in the illustration used to explain *inference*, that all English silver coins are coined at Tower Hill or that all sixpences are English silver coins, then, of course, the conclusion does not follow.

<sup>2</sup> Sidgwick, *The Process of Argument*, pp. 74-76.

he takes us into another field of Argumentation, the rhetorical, and bids us apply the rules given us to produce clearness in our work.

*The Second Reason.* — It is, of course, evident that we must have some names for the processes of thought which we shall use, but for a reason stated by Professor Sidgwick — the second reason why Formal Logic is of but little use to the practical student of Argumentation — we shall use as few as possible.

“Almost every one would admit that the technical terms of what is usually taught as Logic [*i.e.*, Formal Logic] are to a great extent survivals from philosophies now very largely superseded. As exercises for the student’s memory, and as affording material for examination questions, they may still have a value. To the thorough-going student of the history of philosophy they will probably always be interesting. But for any other purpose, except that of causing confusion and hindering progress in a subject which is difficult enough even without them, they have long been losing the value they formerly had. ‘Logic’ [Formal Logic] bristles with terms which have gradually sunk out of use.”

“The best reform we can propose is to follow the practice of common sense, and drop ‘these technicalities’ quietly out of remembrance. In order to do this we need not know beforehand precisely what they are. We need only adopt the simple rule that the first question to be asked regarding any logical technicality is, What is its actual value in helping us to understand the process of argument?”<sup>1</sup>

We shall, then, with this preliminary analysis of the field of Argumentation, study Logic only in its practical application in controversy of whatever kind. Applied

<sup>1</sup> Sidgwick, *The Process of Argument*, pp. 199, 200.



Logic, we may call it, in contradistinction to Formal Logic, logic treated as a science, which we shall neglect, except as we borrow a few terms from it.

#### THERE ARE TWO MAIN KINDS OF ARGUMENTATION.

Argumentation in general naturally divides into two kinds—that which is written, and that which is spoken. Even as the first division, broadly considered, may include the hastily written note urging a friend for certain stated reasons to do this or that; the speech, carefully written out beforehand and delivered from well-arranged notes; or the carefully pondered article on a scientific, historical, or purely literary subject; so the second may extend from the mere controversial chat between friends, through the delivery from memory of a carefully prepared speech, to a masterly extemporaneous argumentation. It is at once evident that the two divisions sometimes overlap, or that we should, perhaps, make a middle division for the argumentation that is first carefully written out and then committed to memory or reduced to a neat but brief set of notes from which the author can speak apparently extemporaneously. Indeed, Argumentation that does not rest on preparatory written work is exceedingly rare, except as men meet informally at the houses of friends, at clubs, or in the streets. Evidently, then, if we study the laws of Argumentative composition,—whatever in Logic, in Rhetoric, in methods of Persuasion, in rules of Evidence we must understand, we are to write well argumentation that is to be printed, delivered before an audience,—we shall have mastered that we need to know of successful Argumentation in

general, except what an art which has nothing to do with Argumentative Composition, but is indispensable to the speaker, Elocution, has to offer. That art teaches us how to speak, to stand, to gesticulate. It lies, however, outside the field of a book like this, and our study will be confined to Argumentative Composition—to Argumentation that is written. We shall consider spoken Argumentation only when the rules that underlie the two divisions are the same.

#### THE RELATION OF ARGUMENTATIVE COMPOSITION TO RHETORIC.

Since a knowledge of Rhetoric—of the laws of clearness, force, and elegance in style, and of the use of Description, Narration, and Exposition—is essential to strong Argumentation, and since the greater part of all argumentation is in its first or its final form written work, Argumentative Composition, we see why Argumentation is included in a course in Rhetoric. It is studied late in the course, because as a subject it is more regularly inclusive than the other chief divisions—Description (which “produces in the mind of the reader a picture of certain objects or persons”), Narration (which “gives an account of an event or a series of events”), and Exposition (which “explains the theory underlying a group of connected facts”),<sup>1</sup> and depends on the aid of all of these to produce the effects it aims at. The interdependence of these kinds of composition and the inclusiveness Argumentative Composition will probably best be explained by an illustration.

<sup>1</sup> *Introduction to Theme Writing.* J. B. Fletcher and G. R. Carpenter. Allyn & Bacon. 1894. p. 2.

Erskine, in his defense of Lord George Gordon, very early expounded the law of treason ; in applying it to the case before him, he narrated the history of the Protestant Association ; he described the conduct of the witnesses in giving their evidence, and, in their words, the events of the day of the riots. That is, in order to prove that Lord George Gordon was not guilty of treason, he repeatedly made use of the three other methods of expression — Description, Narration, and Exposition.

#### THE PURPOSE OF THIS BOOK.

The object of this book, then, is threefold. First, it aims to show a student how, if need be, he may hope to produce in the mind of some one else a belief in the truth of the ideas which he holds to be true, to show how he may best convince and persuade his hearer or reader of the truth of his words. The student, depending on a knowledge of Rhetoric as far as it concerns Description, Narration, Exposition, and the laws of clearness, force, and elegance, which has previously been gained, is to examine how these kinds of composition aid in argumentative work, how the laws of clearness, force, and elegance apply to it. He is to consider carefully why one kind of reasoning is good and another bad, *i.e.*, is to study Logic, which will prepare him by experience for an intelligent later study, if he wishes, of Formal Logic, —

1 tabulates and names the processes and elements of  
sses of reasoning that are the warp of any argumen-  
. He is to study, also, what makes good and what  
dence apart from its logical convincingness, is to  
knowledge of fundamental distinctions in evi-

dence that must precede any study by him of the special rules for the interpretation of evidence that have grown up in the courts and are applicable only in them. Lastly, he is to study what are the established rules of Persuasion, in what ways he may most readily and most effectively move men on the subject he is treating.

As has been already pointed out, the student, too, who does not enter into debate with any fellow-being, but strives to form deliberately a correct judgment on some question in his special field of work or on some topic of the hour, can, in avoiding pitfalls left in his path consciously or unconsciously by others or prepared for him by his own lack of training in argumentation, make use of the rules and suggestions to be given in this book. It is against the frame of mind — altogether too frequent in college students — criticised by Cardinal Newman in the following extract that this little book is particularly directed:

“What is more common than the sight of grown men, talking on political or moral or religious subjects, in that off-hand, idle way, which we signify by the word *unreal*? ‘That they simply do not know what they are talking about’ is the spontaneous, silent remark of any man of sense who heard them. Hence such persons have no difficulty in contradicting themselves in successive sentences, without being conscious of it. Hence others, whose defect in intellectual training is more latent, have their most unfortunate crotchets, as they are called, or hobbies, which deprive them of the influence which their estimable qualities would otherwise secure. Hence others can never look straight before them, never see the point, and have no difficulties in the most difficult subjects. Others are hopelessly obstinate and prejudiced, and, after they have been driven from their opinions, return to them the next moment

without even an attempt to explain why. Others are so intemperate and intractable that there is no greater calamity for a good cause than that they should get hold of it. It is very plain from the very particulars I have mentioned that, in this delineation of intellectual infirmities, I am drawing . . . from the world at large; I am referring to an evil which is forced upon us in every railway carriage, in every coffee-room or *table-d'hôte*, in every mixed company.

“When the intellect has once been properly trained and formed to have a connected view or grasp of things, it will display its powers with more or less effect according to its particular quality and capacity in the individual. In the case of most men it makes itself felt in the good sense, sobriety of thought, reasonableness, candour, self-command, and steadiness of view, which characterize it. In some it will have developed habits of business, power of influencing others, and sagacity. In others it will elicit the talent of philosophical speculation, and lead the mind forward to eminence in this or that intellectual department. In all it will be a faculty of entering with comparative ease into any subject of thought, and of taking up with aptitude any science or profession.”<sup>1</sup>

In brief, then, this book aims to aid college students in acquiring the ability to make “an instinctive, just estimate of things as they pass before them,—sometimes a natural gift, but commonly not gained without much effort and the exercise of years.”<sup>2</sup>

<sup>1</sup> Newman, *Idea of University*. Longmans, Green & Co. 1888. Preface. pp. xvii–xviii.

<sup>2</sup> *Idem*, p. xvi.

## CHAPTER II.

### ANALYSIS.

#### THREE CONDITIONS NECESSARY FOR SUCCESSFUL ARGUMENTATION.

**I**N order to argue clearly three conditions are absolutely necessary: to know (1) What the question means; (2) What you believe about it, and why; (3) How you are to state your case so that (*a*) you shall convince, and (*b*) persuade. To know what the question to be discussed means has two significations: to know just what is the point in dispute, the idea about which the essential difference of opinion arises; and to know what is the work to be done, what ideas must be proved true, if a conclusion in favor of one side or the other is to be reached.

#### ANALYSIS, THE FIRST GREAT DIVISION OF ARGUMENTATIVE COMPOSITION.

To find out what the real point in dispute is, we must carefully examine the material we can collect in regard to the subject, and by placing on one side all the ideas upon which our opponent admits his readiness to agree with us; by excluding bit by bit all ideas that must be admitted to be irrelevant; by subordinating what is less important to what is more so; reach the pivotal idea or ideas. That is, to find just what is the question, we must analyze carefully, for analysis is a "process of exclusion for a central

idea" or ideas. If, too, we are to decide what is the work to be done in order to establish one side or the other of the question as true, we must decide, after we have separated the disputable matter essential to the discussion from what is admitted by both sides and from what is extraneous, just the relation that the facts of this remaining material bear to one another. Doing this, we shall see what subordinate ideas must be established as true before main ideas may be accepted as trustworthy, before by use of these main ideas we can show that the chief idea of all is worthy of acceptance. The process by which we find these natural inter-relations of the material — what may be called the primary or inherent structure — is again analysis. It becomes clear, therefore, that the first of the great divisions of Argumentative Composition which we must study is *Analysis*.

#### STUDY OF THE RULES OF EVIDENCE IS THE SECOND MAIN DIVISION OF ARGUMENTATIVE COMPOSITION.

As Analysis leads us to know what the question means, so study of evidence, or whatever seems to support or to overcome any of the ideas that deserve a place in our discussion, shows us—as it convinces or fails to convince us—what we believe about the central idea. The rules and suggestions that may help us in finding and in selecting evidence, make, therefore, the second of the great divisions of Argumentative Composition which we must study.

## RHETORICAL STRUCTURE AND PERSUASION THE THIRD AND THE FOURTH GREAT DIVISIONS.

When, however, we know by analysis what the question is, what relations the ideas to be considered bear to one another, and what is the evidence upon which we rest our belief, we still need to study how we may best put this question and its supporting evidence before a hearer or reader so as to (*a*) convince and (*b*) persuade him. Plainly enough, there must be certain laws as to clearness, force, and elegance, — rhetorical laws of structure and of style, — which will aid us in (*a*). Clearly, too, there are laws which will guide us in appealing directly or indirectly to the emotions of our hearers. *Rhetorical Structure*, then, corresponds to (*a*) and *Persuasion* to (*b*), and we now see what are the remaining two great divisions under which it is convenient to treat Argumentative Composition.

It is because men neglect, in their arguing, one or all of these four divisions of Argumentation that we hear so much wrangling, read so many discussions, which come to naught, that “a vague tendency and a loose approximation to what is right is all that we can hope for from miscellaneous public opinion.”<sup>1</sup> It is under these headings that we shall consider Argumentative Composition.

## THE FIRST STEP IN ANALYSIS.

As has been said, the first work of Analysis is to find out what is the real point at issue, on what it is that the basal difference of opinion rests. There are several pos-

<sup>1</sup> Bagehot's Works, *The Age of Discussion*.



sible subordinate steps in this work. The first is to *see that you have as the subject for your discussion not a term, the name of a thing or quality, as horse, honesty,<sup>1</sup>—but a proposition*—an assertion in regard to a term or terms; for instance, “Electricity will eventually displace the horse as a means of locomotion; Honesty is the chief essential of character.”<sup>2</sup> “When we join terms together, we make a proposition; when we join propositions together, we make an argument, or piece of reasoning”;<sup>3</sup> when we join the arguments, or pieces of reasoning, together, we have Argumentation.

#### WHY WE CANNOT ARGUE A TERM.

The necessity for finding a proposition as the subject to debate will be clear if once more, for a moment, we examine the nature of Argumentation. We have defined Argumentation as the art of producing in the mind of some one else a belief in the ideas which the writer or

<sup>1</sup> “A logical term may consist of any number of nouns, substantive or objective, with the articles, prepositions, and conjunctions required to join them together; still it is only one term if it points out, or makes us think of a single object or collection, or class of objects.” *Primer of Logic*, Jevons, p. 15. A horse, one animal; the horse, the genus; the Aleutian Islands; the Senate of the United States; each of these is a term.

<sup>2</sup> It should be noted here that it is often convenient to take as a heading in a controversial article a question, as, “Will electricity eventually displace the horse as a means of locomotion?” for this permits a writer, if he feels that there is prejudice against him, or if for any reason an appearance of complete impartiality may best be given the article, to hold back his own conclusion, and not to commit himself until the audience is quite ready. It must be clear, however, that what the writer really treats is either “Electricity will ultimately displace the horse,” *etc.*, or “Electricity will not eventually displace the horse,” an assertion in either case.

<sup>3</sup> Jevons's *Primer of Logic*, p. 12.

speaker wishes the reader or hearer to accept. A belief about something is a feeling, however produced, that this "something" is true or false; the right or the wrong thing to do; interesting or unworthy our attention, etc.; in brief, is the acceptance of some statement about the "something" in past, present, or future time. For instance, in treating of Parochial Schools argumentatively, we do not merely describe the term Parochial Schools, narrate about the term, expound the theory underlying the term; we try to make our reader or hearer believe that Parochial Schools are correct in theory, have done much good, should be encouraged, or the opposites; *i.e.*, we try to make the hearer or reader accept as true some statement about the term Parochial Schools. In other words, since we treat a statement in regard to a term, we treat a proposition. For a start in Description, Narration, Exposition, a term is enough; and as we regard it from one point of view or another, we describe, narrate or expound it, but we cannot in Argumentation start with a term; we must first formulate some proposition in regard to it. We can describe Harvard College, Boston Common, the Yale-Harvard boat-race, *i.e.*, can give a picture to another person of what these terms stand for; can write a narrative about any of the terms, *i.e.*, can give a history of Harvard College, of the Boston Common, of the Yale-Harvard boat-race as an annual occurrence; we can expound the theory of education for which Harvard College stands, the theory which gave being to and has maintained Boston Common as a public pleasure-ground, the theory of athletics which permits the annual recurrence of the Yale-Harvard races.

In all this work we have treated only of the terms regarded from different points of view. If, however, we

wish to argue, we must first formulate some proposition about each of the terms; for instance, that Harvard College should, for purposes of government of the students, be divided, on the Oxford plan, into several smaller colleges; that Boston Common should forever be protected from the greed of corporations; that the Yale-Harvard races show the superiority of the Yale stroke, etc. When Lord Erskine<sup>1</sup> made his great defense of Lord George Gordon, charged with high treason, he did not argue the term Lord George Gordon nor the term high treason; he did argue the question, the proposition, Is Lord George Gordon guilty of treason?

#### A POSSIBLE CONFUSION.

*To argue as to the meaning of a term is not to argue a term.* — Just here, it may be necessary to warn a beginner in Argumentation against a possible confusion. He has just been told that we cannot argue a term, that Lord Erskine did not argue "high treason," yet in the speech to which he is referred, he will find that Lord Erskine spends a large part of his opening words in showing that the meaning of "high treason" is (1) to compass or imagine the death of the king (which does not apply in the case in question), or (2) to levy war against him in his realm by premeditated open acts of violence, hostility, and force; that an act of treason must be open, immediate, unambiguous, that "Nothing out of that plain letter should be brought within the pale of treason by inference or construction." Here, certainly, Lord Erskine seems, at first sight, to argue a term. More careful thinking, however,

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 86-153.

will show us that we do not argue the term until we have made a proposition about it. The Attorney-General had, in his speech preceding Lord Erskine's, contended that the overt acts of Lord George Gordon might fairly be *construed* into a treasonable design, *i.e.*, had said, or implied, that the definition of high treason might be any act which may be construed into levying war against the king. This implied or stated proposition that the meaning of the term may be that given by the Attorney-General, Lord Erskine took as one of the subordinate propositions that must be settled before he could consider his main thesis. We may often find it necessary to argue as to the meaning of a term, but that is not to argue a term, for that about which we really argue is always an implied or stated proposition that the meaning of the term  $x$  is  $y$ .

#### THE WAY IN WHICH THE DANGER OF TREATING A TERM INSTEAD OF A PROPOSITION ARISES.

Such explanation that to argue a term is impossible, that we must first formulate a proposition in regard to it, may seem unnecessary, but one of the commonest errors of beginners in Argumentative Composition arises from a failure to understand this. A student who has seen much mention in the newspapers or periodicals of the Bluefield's Affair, the Japanese in Corea, the Income Tax, Aerial Flight, all of them terms only, is eager to write his argumentative work on one of these subjects, about which he knows a little and wishes to know more. When pressed, however, to state what it is that he wishes to support or to defend as his thesis about the subject, he confesses that as yet he knows too little

of the subjects to say. His first step, then, should be by thinking over carefully what he already knows in regard to the question and by careful reading on the subject, to decide what it is that he wishes to make his proposition in regard to the subject that interests him. Until he has done this, he cannot safely write a word. If without such thought to find a proposition to discuss, he tries, after he has read to some extent on any of the subjects named, to write an argument about one of them, his result — too often seen in the so-called forensic work of college students — will be not unlike this burlesque of a school-boy's argument.

*Fortes Fortuna Adjuvat.*

“Of all the uncertain and capricious powers which rule our earthly destiny Fortune is the chief. Who has not heard of the poor being raised up, and the rich being laid low? Alexander the Great said he envied Diogenes in his tub, because Diogenes could have nothing less. We need not go far for an instance of fortune. Who was so great as Nicholas, the Czar of all the Russians, a year ago, and now he is “fallen, fallen from his high estate, without a friend to grace his obsequies.” The Turks are the finest specimens of the human race, yet they, too, have experienced the vicissitudes of fortune. Horace says that we should wrap ourselves in our virtue when fortune changes. Napoleon, too, shows us how little we can rely on fortune; but his faults, great as they were, are being redeemed by his nephew, Louis Napoleon, who has shown himself very different from what we expected, though he has never explained how he came to swear to the Constitution, and thus mounted the imperial throne.

“From all this it appears that we should rely on fortune only while it remains, — recollecting the words of the thesis, *Fortes*

*fortuna adjuvat*; and that, above all, we should ever cultivate those virtues which will never fail us, and which are a sure basis of respectability, and will profit us here and hereafter.'

"The subject is '*Fortes fortuna adjuvat*'; now this is a *proposition*; it states a certain general principle, and this is just what an ordinary boy would be sure to miss, and Robert [the writer of the essay] does miss it. He goes off at once on the word [term] '*fortuna*.' '*Fortuna*' was not his subject; the thesis was intended to *guide* him for his own good; he refuses to be put into leading strings; he breaks loose, and runs off in his own fashion on the broad field and in wild chase of '*fortuna*,' instead of closing with a subject, which, as being definite, would have supported him.

"It would have been very cruel to have told a boy to write on '*fortuna*'; it would have been like asking him his opinion 'of things in general.' Fortune is 'good,' 'bad,' 'capricious,' 'unexpected,' ten thousand things all at once (you see them all in the *Gradus*), and one of them as much as the other. Ten thousand things may be said of it; give me one of them, and I will write upon it; I cannot write on more than one; Robert prefers to write upon all.

"'*Fortune favors the bold*'; here is a very definite subject: take hold of it, and it will steady and lead you on: you will know in what direction to look.

"Now I will prophesy one thing of Robert unless this fault is knocked out of him. . . . When he grows up, and has to make a speech, or write a letter for the papers, he will look out for flowers, full-blown flowers, figures, smart expressions, trite quotations, hackneyed beginnings and endings, pompous circumlocutions, and so on: but the meaning, the sense, the solid sense, the foundation, you may hunt the slipper long enough before you catch it."<sup>1</sup>

<sup>1</sup> *Idea of University*, pp. 355-361.

THE DANGERS THAT MAY BE AVOIDED BY FINDING WHAT  
IS THE SUBJECT OF DEBATE.

A beginner in Argumentative Composition should, then, keeping the distinction between a term and a proposition clear in his mind, seek first of all to find whether what he or his opponent wishes to treat argumentatively can be phrased as a proposition. Doing this, (1), he will avoid writing about a term disconnected statements which can prove nothing; (2), he may find that the speech or article of his opponent, some self-assured person who is gaining credence from a credulous public, is but a set of statements about the terms of the subject, and is not at all an argument about a proposition. Sometimes, too, there is another reason for this first step in Analysis, namely that two people get into a controversy without any distinct statement of the question they are debating. Under these circumstances, each probably has in his own mind a proposition which he assumes is that his opponent is considering, but which is not. Consequently, the debate will be on parallel or divergent lines until the two men have stated their propositions and discovered either that they do not really disagree or that what they wish to debate must be stated in a proposition different from either of those with which they started. Therefore, (3) to insist upon having a clearly stated proposition as the starting point in any argument is the first step in avoiding this danger.

A political campaign not long since in one of the Middle States gave an illustration of this. Prohibition was nominally the subject of the speeches on both sides, but, though the speeches of those contending against it

could be reduced to the proposition, "Prohibition does not prohibit," the speeches of those who seemed to wish to support it could be reduced only to this statement: "High License is an immoral method of treating the liquor problem." Of course, it was impossible for the arguments of one side to confute those of the other, for there was no common meeting-ground.

#### METHODS OF DECIDING WHETHER THE PROPOSITION PHRASES THE QUESTION IN DISPUTE.

The way in which in the above case an unprejudiced person would decide which of the original propositions phrased the matter really in dispute would be by finding out (1) what the terms in each proposition mean, and hence the proposition as a whole; and (2) whether this meaning of the whole proposition states the question calling for debate. He would decide as to (1) by finding definitions of the terms upon which he and the speakers could agree; and as to (2) by analyzing the material in the case to see what is exactly the real point at issue and its relation to the other material. When, then, the meaning of the terms of a proposition, or of a proposition as a whole, is not self-evident, *definition is the second important step in analysis.*

"Consider the fortunes of an argument in a debating society, and the need there so frequently is, not simply of some clear thinker to disentangle the perplexities of thought, but of capacity in the combatants to do justice to the clearest explanations which are set before them,—so much so, that the luminous arbitration only gives rise, perhaps, to more hopeless altercation. 'Is a constitutional government better for a popu-



lation than an absolute rule?' What a number of points have to be clearly apprehended before we are in a position to say one word on such a question! What is meant by 'constitution'? by 'constitutional government'? by 'better'? by 'a population'? and by 'absolutism'? The ideas represented by these various words ought, I do not say, to be as perfectly defined and located in the minds of the speakers as objects of sight in a landscape, but to be sufficiently, even though incompletely, apprehended, before they have a right to speak. 'How is it that democracy can admit of slavery, as in ancient Greece?' 'How can Catholicism flourish in a republic?' Now, a person who knows his ignorance will say, 'These questions are beyond me'; and he tries to gain a clear notion and a firm hold of them; and, if he speaks, it is as investigating, not as deciding. On the other hand, let him never have tried to throw things together, or to discriminate between them, or to denote their peculiarities, in that case he has no hesitation in undertaking any subject, and perhaps has most to say upon those questions which are most new to him. This is why so many men are one-sided, narrow-minded, prejudiced, crotchety. This is why able men have to change their minds and their line of action in middle age, and begin life again, because they have followed their party, instead of having secured that faculty of true perception as regards intellectual objects which has accrued to them, without their knowing how, as regards the objects of sight."<sup>1</sup>

#### DEFINITION NECESSARY FOR AN UNDERSTANDING OF MOST PROPOSITIONS.

There are few debated questions in which all of the terms carry their meanings unmistakably on their faces. Though, for students of the Elizabethan drama, the topic "Can the work of Francis Beaumont be identified?"

<sup>1</sup> *Idea of University*, pp. 498-499.

would probably need no definition of the terms, for a general audience there might be need to explain just who Beaumont was, and the nature of his work. Moreover, in the following topics taken from past forensic lists of Harvard College, is not some definition indispensable? "Is Bunyan a poet?" "Is Goethe's Egmont a tragic character?" "Does Rembrandt lose more than he gains by his extravagant system of chiaroscuro?" "Is the Utilitarian theory of morals defensible?" "Was the Fugitive Slave Act of 1850 unjust?" "Could the Swiss referendum be advantageously applied in the United States?" "Should the United States have a right to exclusive jurisdiction over Behring Sea?" How can we hope to discuss these topics clearly unless we first decide what we mean by "poet," "tragic character," "chiaroscuro," "extravagant chiaroscuro," "Utilitarian theory of morals," "Swiss referendum," "exclusive jurisdiction," "Behring Sea," and decide on what grounds we shall judge "defensible," "unjust," "advantageous"? Examination of these terms will show a student that vaguenesses, the possibility of contradictory interpretations, lurk in all of these terms, traps for the unwary and the hasty student.

The necessity for good definition at the outset of an argument, and the way in which it may show that argument between two opponents is impossible, are seen in the following extract from *Tom Jones*. Tom has refused to betray the gamekeeper George.

"Thwackum did all he could to dissuade Allworthy from showing any compassion or kindness to the boy, saying 'He had persisted in an untruth,' and gave some hints that a second whipping might probably bring the matter to light; but

Mr. Allworthy absolutely refused to consent to the experiment: he said the boy had suffered enough already for concealing the truth, even if he was guilty, seeing that he could have no motive but a mistaken point of honour for so doing. 'Honour,' cried Thwackum with some warmth: 'mere stubbornness and obstinacy! Can honour teach any one to tell a lie, or can any honour exist independent of religion?' . . . To this Square answered, that it was impossible to discourse philosophically concerning words till their meaning was first established; that there were scarce any two words of a more vague and uncertain signification than the two he had mentioned; for that there were almost as many different opinions concerning honour as concerning religion; 'but,' says he, 'if by honour you mean the true natural beauty of virtue, I will maintain it may exist independent of any religion whatever; nay,' added he 'you yourself will allow it may exist independent of all but one; so will a Mahometan, a Jew, and all the maintainers of all the different sects in the world.' Thwackum replied, this was arguing with the usual malice of all the enemies to the true church. He said he doubted not but that all the infidels and heretics in the world would, if they could, confine honour to their own absurd errors and damnable deceptions; 'but honour,' says he, 'is not, therefore, manifold because there are many absurd opinions about it; nor is religion manifold because there are various sects and heresies in the world. When I mention religion, I mean the Christian religion; and not only Christian religion, but the Protestant religion; and not only the Protestant religion, but the Church of England. And when I mention honour, I mean that mode of divine grace which is not only consistent with and dependent upon that religion, but consistent with and dependent upon no other. Now, to say that the honour I here mean — and which was, I thought, all the honour I could be supposed to mean — will uphold, much less dictate, an untruth, is to assert an absurdity too shocking to be conceived.' . . . 'I purposely avoided,'

says Square, 'drawing a conclusion which I thought evident from what I have said; but if you have perceived it, I am sure you have not attempted to answer it; however, to drop the article of religion, I think it is plain, from what you have said, that we have different ideas of honour, or why do we not agree in the same terms of its explanation? I have asserted that true honour and true virtue are almost synonymous terms, and they are both formed on the unalterable rule of right and the Eternal fitness of things; to which an untruth, being absolutely repugnant and contrary, it is certain that true honour cannot support an untruth; in this, therefore, I think we are agreed; but that this honour can be said to be founded on religion, to which it is antecedent, if by religion be meant any positive law ——' 'I agree,' answered Thwackum, with great warmth, 'with a man who asserts honour to be antecedent to religion. Mr. Allworthy, did I agree ——'

"He was proceeding, when Mr. Allworthy interrupted, telling them, very coldly, they had both mistaken his meaning, for that he had said nothing of true honour."<sup>1</sup>

#### THE DIFFICULTY IN FINDING SATISFACTORY DEFINITIONS.

To find satisfactory definitions is, however, by no means always an easy task. In the topic "Should the United States have exclusive jurisdiction over Behring Sea?" if you look up "exclusive jurisdiction" in a dictionary and find "entire, supreme control" as its equivalent, how much have you gained in clearness? What are the limits of "entire control"; by what law, common or international, are they applied? Just how much, too, is meant, geographically, by "Behring Sea"?

<sup>1</sup> *Tom Jones*, bk. III, ch. 3.

Does the term in this case cover the straits leading into the waters marked on maps with this name? Here are many questions not to be answered off-hand, but only after careful examination of the material on the question.

We shall find that in many cases the dictionaries aid us only to substitute a vagueness for a generality, or the opposite. Definitions from dictionaries should, therefore, be used only with great caution. For instance, justifiable is defined as defensible, warrantable, but in a question like "Are the Irish justified in using illegal measures of resistance to English rule?" to substitute "defensible," "warrantable," does not make us any clearer as to the meaning of the proposition. We need to know on what grounds the "justifiability," "defensibility," "warrantableness" are to be judged. These may be moral, social, economic, political, and, until we decide on which of these we are to judge, we cannot proceed with the discussion. Here, for instance, is a careful effort by a student to place before us, with the aid of a dictionary, the meaning of the terms of a proposition, but it leaves us vague after all.

WAS WEBSTER'S ATTITUDE ON THE SLAVERY QUESTION, IN THE SEVENTH OF MARCH SPEECH, STATESMANLIKE?

"In the beginning it is obviously necessary to arrive at some good definition of the word statesmanlike. In defining it, the dictionary tells us that 'to be well versed in the arts of government' is statesmanlike. This definition does not by any means satisfy us. We need a fuller one. The conclusion that we reach is that statesmanlike means the man who legislates to the best of his ability for the interest of his country, in a true and consistent manner. That Webster, in his seventh

of March speech, does not come within this definition we shall endeavor to prove."

As the student says, when we substitute for "statesmanlike," "to be well versed in the arts of government," we are unsatisfied; not, however, because the definition is not full enough, but because it is not clear. We wish to know just what the "arts of government" are, and what is meant by "well-versed" in them. The student's next step has several faults. He gives us a longer definition, but it is not very clear, for will it be easy to determine what is the best of any man's ability, the interest of a country in a time of conflicting interpretations of the word? Does not the rather vague word *true* confuse us? Moreover, how does the student reach "the conclusion" that *statesmanlike* means his last definition? The necessity for this conclusion is not apparent, the definition is not convincing of itself; and we wish to know more about the links of thought which, in the student's mind, connect the term and the definition. *A definition should, then, (1) be clear, and (2) be convincing.* Another illustration from student work will make the need of the second requisite clearer.

#### ARE THE ENJOYMENT AND CULTIVATION OF THE FINE ARTS ESSENTIAL TO THE HIGHEST TYPE OF CIVILIZATION?

"The first thing which we must deal with is the definition of Fine Arts, and its difference from simple art. A work of the Fine Arts must contain the element of beauty, whereas a work of art only needs to show an intelligent mind. This leads us to the definition of beauty. Now, beauty must possess these two qualities, namely: that of proportion, which perhaps is the

most important, and the abstract quality which pleases the soul of man. A work of the Fine Arts must, therefore, of necessity possess a certain moral element. 'Beauty,' according to Professor —, 'is greater than the good and includes the good; it is the good made perfect.'

"Now, seeing that a work of art contains a moral element, as shown above, it must have an ideal. And thus the author, or composer, of a work of fine arts is constantly striving to attain his ideal, and as he gets nearer and nearer to it, the ideal becomes higher, and it is this which makes the motive for improvement.

"Now, having got the definition of Fine Art, we will consider the meaning of civilization and its development from early times to the present.

"According to Professor —, civilization is the sum of the material and moral acquisitions of a race, these acquisitions being embodied in the Fine Arts."

This definition of Fine Arts is vague for two reasons : (1) because, though we watch its development through several stages, we are not given any final statement of it; and (2) because it is not convincing in its development. The definition is not convincing because we, as persons who have given no special thought to the topic, do not see necessarily (1) Why a work of the Fine Arts must contain an element of beauty; (2) Why beauty must possess both proportion, and the abstract quality which pleases the soul of man; (3) Why a work of the Fine Arts must, therefore, possess a moral element; nor, at first sight, (4) Just why there must be an ideal in any work of the Fine Arts; (5) Why, consequently, even if an artist is always trying to attain his ideal, that is necessarily the same as the ideal contained in any work of the Fine Arts; (6) Why, the nearer the artist gets to his

ideal, the higher it becomes, *i.e.*, the farther it goes away from him. In brief, then, in all these matters the writer must stop for argument, or at least for exposition, or else we shall be unwilling to accept his statements and to follow him. A definition must then be clear, because, if it is not, we cannot follow our opponent in his work; it must be convincing, because, if it is not, we shall not be willing to follow him.

It is an unconvincing definition which Lord Erskine held up to ridicule in part of his examination of the testimony against Lord George Gordon of William Hay:

"The witness said that in the city he saw 'the very same man carrying the very same flag he had seen in the fields.' He said he knew it was the same man because 'he looked like a brewer's servant.' "*Like a Brewer's Servant*"! What, were they not all in their Sunday clothes?' 'Oh! yes, they were all in their Sunday clothes.' 'Was the man with the flag then alone in the dress of his trade?' 'No.' 'Then how do you know he was a brewer's servant?' Poor Mr. Hay!—Nothing but sweat and confusion again! At last, after a hesitation, which everybody thought would have ended in his running out of court, he said, 'He knew him to be a brewer's servant, *because there was something peculiar in the cut of his coat, the cut of his breeches, and the cut of his stockings!*' . . .

". . . I am sure, gentlemen, you will not forget, whenever you see a man about whose apparel there is anything peculiar, to set him down for a *brewer's servant*."<sup>1</sup>

A definition may be unconvincing, not merely because it is not clear, but also because, though clear in itself, it begs the question. When the writer on Fine Arts defines civilization as the "sum of the material and moral

<sup>1</sup> *Specimens of Argumentation* (Modern), p. 115.



acquisitions of a race, these qualities being embodied in the Fine Arts," does he do more than to say: "Civilization and development of the Fine Arts go hand in hand; the civilization of a race is higher or lower as the Fine Arts are more or less developed in it, *i.e.*, as there is a greater or lesser embodiment of material and moral acquisitions"? In other words, he defines in a circle: civilization means the development of the Fine Arts; the development of the Fine Arts means civilization. The definition begs the whole question, since we were asked whether the enjoyment of that upon which the development of civilization depends is essential to the highest type of civilization. A good definition (3) *should not, then, define in a circle, should not beg the question*, for by such defining we do not make any headway in our work.

When Thwackum, in the extract from Tom Jones, quoted p. 43, asked "Can there be any honour without religion?" and later added: "When I mention religion, I mean the Christian religion, and not only the Christian religion, but the Protestant religion; and not only the Protestant religion, but the Church of England. And when I mention honour I mean that mode of divine grace which is not only consistent with but dependent upon this religion, and is consistent with and dependent upon no other," it is clear that he begs the question in his definition.

Always, too (4), *a definition should be as brief as is consistent with fulfilling the requisites of clearness and convincingness.*

AN ATTEMPT TO DEFINE STATESMANLIKE, FINE ARTS,  
AND CIVILIZATION.

If, now, we try to get satisfactory definitions of statesmanlike, fine arts, and civilization, we shall not find our task easy. If we look in the Century Dictionary, we find that statesmanlike means "having the manner or the wisdom of a statesman, worthy of or befitting a statesman." This forces us to define *statesman*, for we are no clearer in mind than before. A statesman, according to the dictionary, is a "man who is versed in the art of government," — the student's vague definition — "and exhibits conspicuous ability and sagacity in the direction and management of public affairs." That last clause at first sight is helpful, for it seems possible to debate this: Did Daniel Webster show conspicuous ability and sagacity in the way in which he directed public affairs in his seventh of March speech? Instantly, however, we face this question, What are to be the tests of ability and sagacity in the management of public affairs, what are the tests in this case? If, in our search for a good definition of statesmanlike, we come upon this definition by James Russell Lowell, we shall see our way more clearly: "Undoubtedly the highest function of statesmanship is to accommodate by degrees the conduct of communities to ethical laws, and to subordinate the conflicting self-interests of the day to higher and more permanent concerns."<sup>1</sup> At once, now, the question becomes for us: Did Daniel Webster in his seventh of March speech do anything to accommodate the conduct of the community to ethical laws, and subor-

<sup>1</sup> *Political Essays*. J. R. Lowell. Houghton, Mifflin & Co., 1890. p. 195.

dinate the conflicting self-interests of the day to higher and more permanent concerns? We shall certainly find this to be a working interpretation of statesmanlike.

If, for Fine Arts, we consult the Century Dictionary, we shall find that an art is "a system of rules and traditional methods for facilitating the performance of certain actions," Rhetoric, Argumentation; that Fine Arts "seek expression through beautiful modes," and are specifically, architecture, sculpture, painting, and engraving. The term *beautiful modes* is here troublesome, and we shall probably turn to some specialist on the Fine Arts for further aid. In Professor Sidney Colvin's article on the Fine Arts, in the *Encyclopaedia Britannica*,<sup>1</sup> he defines as follows: "In other modern languages besides English they (the Fine Arts) are called by the equivalent name of the beautiful arts (*belle arti*, *beaux arts*, *schöne Künste*). The fine or beautiful arts, then, are those among the arts of man which minister not to his material necessities or conveniences, but to his love of beauty (using the word beauty in its widest sense); or, if any art fulfills both these purposes at once, still as fulfilling the latter only is it called a fine art. There is no difference of opinion concerning the nature of fine art and the fine arts as contra-distinguished from art and the arts mechanical. It is acknowledged that one set of arts exists to satisfy practical needs, and the other set exists to give delight and satisfy the sense of beauty, while as to an intermediate set of arts which exist for both purposes, it is possible to distinguish in each case the part which is beautiful or pleasurable from the part which is mechanical or merely useful." Here we have not gone

<sup>1</sup> Vol. IX, p. 174.

much beyond the student's definition, but we do know now that art specialists support his definition and that they agree in giving to all of the fine arts the element of beauty. Still, however, we need to know in what sense the word *beauty* is used ; indeed, we shall find that the question practically turns on the definition we give it, for we shall ultimately, evidently, debate this : Is cultivation of the qualities in men fostered by an appeal to their sense of beauty essential to the highest civilization ?

If now we turn to Ruskin's *Modern Painters*<sup>1</sup> we can get some light on beauty. "Any material object which can give us pleasure in the simple contemplation of its outward qualities without any direct and definite exertion of the intellect, I call in some way or in some degree beautiful. . . . I do not mean by excluding direct exertion of the intellect from ideas of beauty, to assert that beauty has no effect upon, nor connection with the intellect. In all high ideas of beauty, it is more than probable that much of the pleasure depends on delicate and untraceable perceptions of fitness, propriety, and relations which are purely intellectual, and through which we arrive at our noblest ideas of what is commonly and rightly called intellectual beauty. . . . But there is no immediate exertion of the intellect ; that is to say, if a person receiving even the noblest ideas of simple beauty be asked why he likes the object exciting them, he will not be able to give any distinct reason nor to have in his mind any formed thought to which he can appeal as a source of pleasure. He will say that the thing gratifies, fills, hallows, exalts his mind, but he will not be able to say why or how. If he can, and if he can show that he perceives in the object

<sup>1</sup> Vol. I, ch. 3.

any expression of distinct thought, he has received more than the idea of beauty—it is an idea of relation.”

The question becomes, then, if we accept this definition of beauty: Is the cultivation of the arts—specifically architecture, sculpture, painting, and engraving—which can give men pleasure in the simple contemplation of their outward qualities, without any direct and definite exertion of the intellect, essential to the highest type of civilization? That last word, however, is open to misinterpretation; the student begged the question in defining it. Worcester’s definition of the word, “act of civilizing” gives no aid in understanding it; but if in our searching we happen on the definition in Hazlitt’s translation of Guizot’s *History of Civilization*, “Two leading facts constitute civilization: 1. the development of society; 2. the development of the individual,”<sup>1</sup> shall we not feel at once that we have found a definition of the word that conforms to all the tests laid down for a good definition—clearness, convincingness, brevity?

The question now becomes: Is the cultivation of those arts which give men pleasure in the simple contemplation of their outward qualities, without any direct and definite exertion of the intellect, essential to the highest development (1) of the individual, (2) of society? With these definitions we can safely investigate the topic for ourselves, for we are at least clear in our minds as to the meaning of the question.

<sup>1</sup> *History of Civilization*. Guizot. Translated by Wm. Hazlitt. Vol. I. Table of Contents. First Lecture. H. G. Bohn, 1886.

## DIFFERENT METHODS OF DEFINITION.

From the examination of the common faults in definition, and from the attempt to find satisfactory definitions for *statesmanlike*, *fine arts*, and *civilization*, it should be clear that "defining a word" has a very variable meaning. The simple definition states only the class to which the object belongs, the genus, and in what it differs from the other members of the class, its qualities as a species. For instance, an eozoön used to be defined as (genus) a fossilized organic body, (species) belonging to the *Foraminifera*; Henry Ward Beecher, at Liverpool, defined the Republicans as (genus) "those men, (species) who undertook to stand up for the rights of all men, black as well as white." Often the dictionaries provide us with these simple definitions, or with synonymous phrases that are clear and convincing; or we find a satisfactory phrase elsewhere, as when we hit on Lowell's *statesmanlike*; Guizot's *civilization*; Dean Swift's *style* is the "proper words in the proper places"; or Cardinal Newman's "Style is a thinking out into language." More often, however, a mere statement of the genus and the differentia is not enough, and the dictionaries do not help us; we must, then, determine the meaning, the limits of our terms, by other methods, — by analysis of the word, by careful exposition, by antithesis, illustration, analogy, indeed by whatever method will make clear and convincing a term that originally is neither.

Definition of the words *poet*, *poetry*, by examination of the history, the etymology of the word, this extract from Philip Sidney's *Defence of Poesie* shows:

"Among the Romans a poet was called *vates*, which is as much as a diviner, foreseer, or prophet, as by his conjoined words,

*vaticinium* and *vaticinari*, is manifest ; so heavenly a title did that excellent people bestow upon the heart-ravishing knowledge. And so far were they carried into admiration thereof, that they thought in the chanceable hitting upon any such verses great foretokens of their following fortunes were placed ; whereupon grew the word of *Sortes Virgilianae*, when by sudden opening Virgil's book they lighted upon some verse of his making. . . . And may I not presume a little farther to show the reasonableness of this word *vates*, and say that the holy David's Psalms are a divine poem ? If I do, I shall not do it without the testimony of great learned men, both ancient and modern. But even the name of Psalms will speak for me, which, being interpreted, is nothing but Songs ; then, that it is fully written in metre, as all learned Hebricians agree, although the rules be not yet fully found ; lastly and principally, his handling his prophecy, which is merely poetical. . . . But now let us see how the Greeks named it and how they deemed of it. The Greeks call him *ποιητήν*, which name hath, as the most excellent, gone through other languages. It cometh of the word *ποιεῖν*, which is, 'to make' ; wherein, I know not whether by luck or wisdom we Englishmen have met with the Greeks in calling him a maker."<sup>1</sup>

The following from Mr. H. B. Wheatley's *Literary Blunders* illustrates the method of definition by antithesis placing one term over against another in order to see in just what they differ :

"The words 'blunder' and 'mistake' are often treated as synonyms ; thus we usually call our blunders mistakes, and our friends style our mistakes blunders. In truth, the class of blunders is a subdivision of the *genus* mistakes. Many mistakes are very serious in their consequences, but there is almost always some sense of fun connected with a blunder,

<sup>1</sup> *Defence of Poesie*, P. Sidney, pp. 5, 6. Ginn & Co., 1890.

which is a mistake usually caused by some mental confusion. Lexicographers state that it is an error due to stupidity and carelessness, but blunders are often caused by a too great sharpness and quickness. Sometimes a blunder is no mistake at all, as when a man blunders on the right explanation; thus he arrives at the right goal, but by an unorthodox road. . . . Some years ago there was an article in the *Saturday Review* on 'the knowledge necessary to make a blunder,' and this title gives the clue to what a blunder really is. It is caused by a confusion of two or more things, and unless something is known of these things a blunder cannot be made. A perfectly ignorant man has not sufficient knowledge to blunder."<sup>1</sup>

The following from R. L. Stevenson's letter to the Rev. Dr. Hyde, in answer to his letter attacking Father Damien, exemplifies in the first part definition by iteration, and in the second, definition by exemplification:

"Common honour; not the honour of having done anything right, but the honour of not having done aught conspicuously foul; the honour of the inert; that was what remained to you. . . . But will a gentleman of your reverend profession allow me an example from the fields of gallantry? When two gentlemen compete for the favour of a lady, and the one succeeds and the other is rejected, and (as will sometimes happen) matter damaging to the successful rival's credit reaches the ear of the defeated, it is held by plain men of no pretensions that his mouth is, in the circumstance, almost necessarily closed. Your church and Damien's were in Hawaii upon a rivalry to do well: to help, to edify, to set divine examples. You having (in one huge instance) failed, and Damien succeeded, I marvel it should not have occurred to you that you were doomed to silence; that when you had been outstripped in that high rivalry, and

<sup>1</sup> *Literary Blunders*, pp. 1, 2. H. B. Wheatley. London: Elliot, Stock & Co., 1893.



sat inglorious in the midst of your well-being, in your pleasant room — and Damien, crowned with glories and honors, toiled and rotted in that pigstye of his under the cliffs of Kalawao — you, the elect who would not, were the last man on earth to collect and propagate gossip on the volunteer who would and did.”<sup>1</sup>

In his Liverpool speech Henry Ward Beecher used analogy as a means of definition :

“A savage is a man of one story, and that one story a cellar. When a man begins to be civilized he raises another story. When you christianize and civilize the man, you put story upon story, for you develop faculty after faculty; and you have to supply every story with your productions.”<sup>2</sup>

Definition by exemplification Professor Huxley used in explaining testimonial and circumstantial evidence:

“By testimonial evidence I mean human testimony; and by circumstantial evidence I mean evidence which is not human testimony. . . . Suppose that a man tells you that he saw a person strike another and kill him; that is testimonial evidence of the fact of murder. But it is possible to have circumstantial evidence of the fact of murder; that is to say, you may find a man dying with a wound upon his head having exactly the form and character of the wound which is made by an axe, and, with due care in taking surrounding circumstances into account, you may conclude with the utmost certainty that the man has been murdered; that his death is the consequence of a blow inflicted by another man with that implement.”<sup>3</sup>

<sup>1</sup> *Father Damien*, pp. 11 and 12. Chatto & Windus, 1880. Reprinted from the Scots' Observer.

<sup>2</sup> *Specimens of Argumentation* (Modern), p. 166.

<sup>3</sup> *Idem*, pp. 70, 71.

Definition by careful exposition of the terms in which the troublesome word has been defined is illustrated by the quotation from Ruskin as to Beauty, p. 52. The definition he gives of the word is in itself not entirely clear and convincing, and therefore he explains carefully what he means by something that can give pleasure without any direct or definite exertion of the intellect. See also Professor Genung's definition of Description, *Practical Rhetoric*, pp. 326, 327.

Definition by description is illustrated by Professor Huxley's account, in the first of his *Three Lectures on Evolution*, of the second hypothesis,<sup>1</sup> and by the following from an article on the Steam Engine by G. C. V. Holmes:

"Take a hollow cylinder, the bottom closed while the top remains open, and pour in water to the height of a few inches. Next cover the water with a flat plate or piston, which fits the interior of the cylinder perfectly; then apply heat to the water, and we shall witness the following phenomena. After the lapse of some minutes the water will begin to boil, and the steam accumulating at the upper surface will make room for itself by raising the piston slightly. As the boiling continues, more and more steam will be formed, and raise the piston higher and higher, till all the water is boiled away, and nothing but steam is left in the cylinder. Now this machine, consisting of cylinder, piston, water, and fire, is the steam-engine in its most elementary form. For a steam-engine may be defined as an apparatus for doing work by means of heat applied to water; and since raising such a weight as the piston is a form of doing work, this apparatus, clumsy and inconvenient though it may be, answers the definition precisely."<sup>2</sup>

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 66, 67.

<sup>2</sup> *Specimens of Exposition*, p. 42. H. Lamont. H. Holt & Co., 1894.

The important idea that all these quotations illustrate is that in defining we shall be forced very often to turn aside from the dictionaries and by search in essays, books by specialists, in our own experience, by careful examination of the words, and by thought upon them, to reach through analogy, exemplification, analysis of the word, detailed description, iteration, antithesis, their real meaning.

#### ADVANTAGES OF PRELIMINARY DEFINITION OF TERMS.

The advantages of this preliminary examination of the terms of the proposition to be debated are of several kinds. By it (1) topics, particularly scientific subjects but also literary questions, that are vague only because they are technical, are cleared by the substitution of terms, longer perhaps but more generally understood. For instance, to the average magazine reader the subject, "Is the cortex of the cerebrum in man divided into definitely localized centres?" contains at least two terms that will probably not be clear: "cortex of the cerebrum" and "localized centres." You may rephrase the question in this way: "Is the layer of gray matter investing most of the surface of the brain and dropping down into the fissures between the convolutions of the brain, divided into areas whose relation to the nerves not in the brain is as follows: (A) the removal of one of these areas involves (1) the abolition of the voluntary control of the efferent nerves of a certain part, or (2) if the sensory nerves are concerned, the preclusion of sensations from following their stimulation; on the other hand, (B) stimulation of these same areas will give rise to a sensation, as if in the part, or to definite muscular action in the

part?"<sup>1</sup> This, though long, should certainly be clearer for the general reader. But to get this we must subject the proposition to the examination which has just been advocated. This literary topic, too, "Is transverse alliteration in parisonic antithetical or parallel clauses the indispensable criterion of the presence of Euphuism?" a question based on an affirmation of Dr. Friedrich Landmann, who has made a study of the subject, would be meaningless to many. As a critic has said, it needs "a commentary to make it intelligible." When we expand this by aid of explanations from Dr. Landmann as follows, it becomes clearer. Euphuism is the name given to the style of John Lyly from his novel, *Euphues, His Anatomie of Wit*. The following is an instance of transverse alliteration: "Although hitherto, Euphues, I have *shrined* thee in my *heart* for a *trustie friende*, I will *shunne* thee *hereafter* as a *trothless foe*." Are, then, this transverse alliteration and an antithesis not only of well-balanced sentences but also of words, even of syllables, which, when we have a principal and a subordinate clause, balances two, three, or all of the words of the former against an equal number of the latter, indispensable criteria of the presence of Euphuism?

Nor will the objection that, since we must explain these technical terms, it would be better to give the topic originally in the phrasing that we reach when we examine it, always hold good. These technical names, as the last two illustrations show, often phrase what can be expressed otherwise only by awkward circumlocution, and the proposition which we reach in our examination of the terms would be in these cases too cumbersome for a heading.

<sup>1</sup> Arranged from the *Century Dictionary*.

Moreover, it is important that the reader should realize that what he understands clearly enough when stated at length is but the same thing or process which the scientist or specialist denotes by a single word or term. That is his first step into the new knowledge that he is acquiring. Unless, therefore, the technical phrasing of the topic is likely to repel a possible reader or hearer, because it conveys no meaning to his mind and does not pique his curiosity, it may well be retained, but should be at once, in the introductory work, cleared of all vagueness.

This process also rids a topic of any confusion liable to arise from it because it is (2) ambiguous or (3) has question-begging terms in it. The following topic, for instance, contains an ambiguous term: Was the treatment of the American Loyalists by the Whigs justifiable? When the subject appeared recently in a list of forensic topics at Harvard College, briefs from two very different points of view were drawn on it. Some students took *Whigs* to mean the Whig party in the Colonies, that is, those who were in armed resistance to Great Britain, while others interpreted Whigs to mean the Whig ministry of Lord Shelburne. As far as the mere wording of the question is concerned, each interpretation is justifiable. The trouble lies, of course, in the ambiguousness of *Whigs*. If we rephrase the question thus, Was the treatment of the American Loyalists by the English Whigs justifiable? the danger disappears.

Here is an example of a proposition containing a question-begging epithet, "Is John Lyly's fulsome flattery of Queen Elizabeth, in his *Euphues and his England*, commendable?" This question evidently assumes that all must admit that the flattery of Elizabeth was "fulsome," and

hence it becomes important for us to understand just what "fulsome flattery" means. "Fulsome," according to the *Century Dictionary*, "is something offensive from excess, gross, nauseous, disgusting." But anything that deserves these adjectives can hardly be commendable, and hence the term "fulsome" begs the question.

The advantage, however, of this preliminary examination is not merely to rid the proposition of technical, ambiguous, or question-begging terms ; it also goes a long way (4) to rid the entire discussion of vagueness. If, in your writing or speaking, you get the audience to accept your preliminary definitions, you are well on the road to convincing them. All the introductory portion of Professor Huxley's first of his three lectures on Evolution, given in New York in 1876, illustrates this. He so states the problem of the creation of the world that every fair-minded man must admit that, whatever his prejudices, it has thus presented itself to him at some time. He then explains the three possible hypotheses so clearly, so simply, and so fairly that the same hearer must admit their fairness and clearness. Then, because nearly all the proof to be used to refute the old hypotheses and to support the new will be circumstantial evidence, Professor Huxley carefully explains the difference between it and testimonial evidence and why the popular distrust of circumstantial evidence is unworthy support. When, then, he begins to argue, every reader must understand just what the question means and be ready to admit all that he has said thus far. Yet, if these definitions and distinctions be granted, especially the value put upon circumstantial evidence, the reader will find that Professor Huxley's conclusions are well-nigh irresistible.<sup>1</sup>

<sup>1</sup> See pp. 60-72, *Specimens of Argumentation* (Modern).

If, on the other hand, an audience, when you are speaking, refuses to accept your definitions, you are spared the labor of a speech which could never have convinced any one before you, and you know whence the difference of opinion springs. If readers refuse to accept your definitions and to read beyond them in your work, you are not saved the labor of composition, but they are saved the labor of reading something to which they could not agree, and you both understand where and why you differ. If, for a third case, the audience of hearers or readers objects to your definitions, but is willing to hear you finish, they decide either that, granted your definitions, which they cannot accept, you are right, or that neither your definitions nor your argument developed from these, seem conclusive. In any case, therefore, this preliminary defining of terms that may be vague, is a great aid in ascertaining just where you and your opponents differ, and is indispensable in clearing the ground for action. Indeed, "definition is the life of argument."

#### HOW MUCH SHALL WE DEFINE?

If, then, we are, in discussion, to define whatever in the terms of the proposition may be susceptible of a different interpretation by us and by our opponent or audience, how are we to know how much to define? When the controversy is between two persons only, they either meet for discussion or they carry on their argument by letter or through the press. Our aim in any case is, of course, to make our interpretation of the meaning of the question coincide with that of our opponent or audience. When two opponents meet, if at the start this coincidence

of interpretation does not exist, it will not be difficult to find the particular term or terms which are interpreted differently, and these are all that must be defined satisfactorily before the argument itself can begin. Even if the controversy is carried on by letter or through the press, this means that one of the two persons aroused the other by something which he wrote or said. This was probably formulated as a proposition, or may readily be reduced to one, and the meaning given to its terms can be readily ascertained by study of the argument developed from them. Before replying, the second person should find out what the proposition of his opponent is and what is the interpretation given by him to its terms. If the second person differs as to their meaning, he should show why clearly before he begins his argument. Here, again, one opponent really tells the other what it is in the terms upon which they differ and upon which they must reach an agreement before they can argue about anything more than the meaning of the terms.

When two men discuss by letter or through the press, because something the first has said or written has aroused the other, the position of the first, who launched his article or speech into the world with no special opponent in mind, is that of the man who writes for or addresses an audience. His work in determining to what extent he shall define his terms is much more difficult than that of the man writing for or speaking to one other person. Often, as in the case of an article in a magazine, he writes for an audience of indeterminate size, of many and widely differing points of view, some of which he can hardly foresee. Even if his work be addressed only to an audi-



ence of a hundred in some hall, there will be, probably, several grades of intellect in it and various degrees of knowledge of his subject. How is he in either of these cases to determine what terms will need explanation, what is liable in the proposition to be misinterpreted? He must strike an average. Putting aside for a moment, as far as he can, the special knowledge of his subject that makes even difficult matters seem to him rudimentary and self-evident, he must, for an audience of magazine readers, try to place himself in the position of a person of average intelligence and education who has no special knowledge of the subject, but is willing to learn about it. He will then explain those terms which, it seems to him, must be vague to such a person. If he is writing a popular article on some subject in which he is a specialist, the probable needs of a reader of the *Century*, the *Harper*, or the *Scribner*, who runs over the pages of the current number for something interesting, knowing but little of the subject of any of the articles, may be a convenient standard. Practice in such work will soon give him accuracy of judgment as to the amount of definition needed in popularizing a subject in history, science, or literature. If he is directly to address an audience, he must before he is to enter the hall, or rapidly as he looks over his audience before beginning, judge its intellectual status, and, when he speaks, increase or diminish his definition as the conditions in the audience seem to warrant. Here again practice, this time in addressing audiences, makes a task originally very difficult increasingly easier.

It must be clear from this attempt to get some rough tests for limiting our defining that it will vary as the audiences vary. A writer may range from an article for

children on his specialty in the *Youth's Companion* or *St. Nicholas*, through an essay on it, still simple, but by no means clear to children, in the *Harper*, the *Scribner*, the *Century*, to a discussion in regard to it for his fellow-workers, by no means clear not merely for children, but even for the average reader, in the *Historical Review*, the *Psychological Review*, or *Anglia*. Evidently the preliminary definition required in treating the same subject for these three different audiences will vary decidedly. For the third set of readers he will need to define only those terms to which he gives an unusual meaning; in regard to all the essentials of the question, the audience will be as well informed as the writer. The second audience will need considerable definition, the first a great deal. In the same way a speaker who in turn addresses an audience at some charity organization in the slums of a city, a large gathering of people in a popular lecture course, or a meeting of some historical or scientific association, will much vary the amount of preliminary defining that he does. Common sense and practice are the best guides in determining the amount of defining to be done for any special audience.

#### THE THIRD STEP IN ANALYSIS INVOLVED IN DEFINING.

This defining of our terms for our own convenience or that we may reach an understanding about them with our opponent, involves a third step in our analytical work. We agree to or refuse to accept definitions of the terms in our topic as they seem to us when taken together to make clear, or to fail to make clear, just the matter which we wish to discuss. In other words, when we have set-

tled on definitions of all the possible vague terms in our topic or have accepted definitions of them given by our opponent, we have decided that the topic as rephrased in the definitions states clearly *the general question* which we wish to treat. Now to know what this general question is, what is the disputable topic, we must have examined into the origin of the discussion to see how it became debatable. Some *study of the origin of the question*, then, is involved in the definitions of the terms, and *is a third, if subordinate, step in analysis*.

For instance, when we are asked to accept this restatement of the question in regard to the seventh of March speech of Daniel Webster, "Did Daniel Webster, in his seventh of March speech, accommodate the conduct of the community to ethical laws and subordinate the conflicting self-interests of the day to higher and permanent concerns?" we cannot pass any judgment on the sufficiency of the definition of *statesmanlike* unless we know the circumstances which gave rise to the question. When we remember, or find by investigation, that at a time of confused and conflicting interests Daniel Webster made a speech which some men then and since have denounced as truckling to political faction in order that he might gain the presidency, we shall see that the new phrasing of the topic states what we wish to debate.

For a second illustration, look at the topic, "Has the United States a right to exclusive jurisdiction over Behring Sea?" If we are asked to accept "supreme control" as the meaning of exclusive jurisdiction, we wish to know in what way, in what acts, that "supreme control" would manifest itself, and also by what that "supreme control" would be given. Until we know

these matters, we can hardly be satisfied with "supreme control." In other words, we must look into the origin of the question. We shall find that in 1886, 1887, and 1888 United States cruisers seized vessels said to be British. These were engaged, in the waters of Behring Sea, outside the ordinary limit of territorial jurisdiction (three miles from shore), in hunting and taking fur seals which had their breeding grounds on two of the islands of the Aleutian group. The United States acted in this way on the ground that it must protect the interests of the sealing company to which the right to take seals on these islands had been granted. If seals could be captured by other persons as the animals were on their way to and from the islands, there was danger, at most of extermination, at least of serious injury to the interests of the American sealing company. Great Britain protested against the action of the United States, and the latter declared that it had a right to control the waters of Behring Sea for the protection of the seals ; said, in brief, that it had the right to exclude all the vessels of all other nations from the seal-fishing in Behring Sea. "Supreme control," then, is satisfactory, and we see, too, on what grounds the right must be determined, for here we have one great nation arrayed against another, the first making a claim to rights outside the limits that International Law—the law of nations—sets as the ordinary territorial limit. Evidently, then, we must determine whether International Law can be interpreted as granting the United States right to supreme control over Behring Sea. In testing the definition, however, we have come to know *the origin of the question.*

## A DANGER THAT THIS STUDY OF THE ORIGIN OF THE QUESTION AVOIDS.

This testing of the definitions by examining the origin of the question sometimes shows the inadequacy of the proposition as formulated. For instance, a few years ago some Harvard students were eager to write on the quarantine regulations in New York to prevent the spreading of cholera in this country. When asked to formulate a topic, they usually gave it as follows: "Should there be strict quarantine regulations in New York?" Certainly this was a question, but when they were asked to state just what they meant by *quarantine regulations* and *strict quarantine regulations* it appeared that in their minds the first term stood for the treatment of passengers of the steamer *Normannia*. That definition meant that it was necessary to inquire as to the way the question arose in the mind of the student, for why should *quarantine regulations* mean this particular idea? Such inquiry showed that the detention by the United States officials in quarantine for several days of the steamer *Normannia*, when she came in with some cases of cholera on board, had caused great distress to the passengers, and the justice, the necessity, for the details of the treatment were really what interested the students. Therefore examination of the origin of the question showed that the students had not phrased their topic properly. None questioned that there should be a strict quarantine in New York harbor, but many questioned whether in the case of the *Normannia* it was not unnecessarily severe. Therefore the proposition to debate had to be changed to: "Was the treatment of the passengers of the *Normannia* unnecessarily severe?"

## WHAT THE FIRST THREE STEPS IN ANALYSIS GIVE US.

To sum up, then : first we get a proposition to discuss; then we examine its terms to see what they mean singly, and what they give as a meaning to the proposition as a whole; and in accepting the definitions as not merely clear but as satisfactory for our purposes, we test them, by examining the origin of the question, to see whether the definitions give to the proposition as a whole a meaning that phrases the general question we wish to discuss.

## THE FOURTH STEP IN ANALYSIS: TO FIND THE SPECIAL ISSUE IN THE CASE.

In every case, amid the tangle of ideas connected with it, there is one central idea, or group of ideas, about which the others centre. To prove this central idea, or group of ideas, to be true or false, is to win the case for the affirmative or the negative. For instance, in Lord Erskine's defense of Lord George Gordon, the general question was, "Is Lord George Gordon guilty of treason?" but Lord Erskine, in his skillful introduction, soon shows that the question turns on this: "Has anything in the conduct of Lord George Gordon been an open, unambiguous, and premeditated levying of war against the king in his realm?" That is the *special issue* in the case. As we answer it affirmatively or negatively, the case is settled for one side or the other; on this question the debate turns.

In the same way the question "Was Aaron Burr guilty of treason?" reduces for a lawyer treating it on constitutional grounds to this: "Was there any overt act of treason

by Burr witnessed by two persons?" That is, the special issue here has two ideas: Was he guilty of a treasonable act, and were there two witnesses to it? If the lawyer were perfectly sure that he could show there were not two witnesses, he might grant the first and confine his attention to the second. Indeed, since two witnesses to an overt act could not be found, the case against Burr fell through.

When, too, Sir Thomas Wyatt was accused of high treason, he cut down to the essential ideas, the *special issue*, in his case, as follows :

"The accusation comprehendeth the indictment, and all these worshipful men's tales annexed thereunto. The length whereof, the cunning whereof, made by learned men, weaved in and out, to persuade you and trouble me here and there, to seek to answer that is in the one afore, and in the other behind, may both deceive you and amaze me, if God put not in your heads honest wisdom to weigh these things as much as it ought to be. So, to avoid the danger of your forgetting, and my trouble in the declaration, it is necessary to gather the whole process into these chief points, and unto them to answer directly, whereby ye shall perceive what be the principals, and what be the effects which these men craftily and wittingly have weaved together, that a simple man might hardly try the one from the other. Surely, but that I understand my own matter, I should be too much to seek and accumbered in it. But, masters, this is more of law than of equity, of living than of uprightness, with such intricate appearances to blind men's conscience ; specially in case of man's life, where always the naked truth is of goodliest persuasion. But to purpose. Of the points that I am accused of, to my perceiving, these be the two marks whereunto mine accusers direct all their shot of eloquence. A deed, and a saying. After this sort, in effect, is the deed alleged

with so long words : ‘Wyatt in so great trust with the King’s Majesty that he hath made him his ambassador, and for whom his Majesty had done so much, being ambassador, hath had intelligence with the King’s rebel and traitor, Pole.’ Touching the saying, amounteth to this much : ‘That same Wyatt, being also ambassador, maliciously, falsely and traitorously said, That he feared that the King should be cast out of a cart’s tail; and that by God’s blood, if he were so, he were well served, and he would he were so.’ The sole apparel of the rest of all this proof pertaineth to the proof of the one or the other of these two points. But if these two points appear unto you to be more than false, maliciously invented, craftily disguised and worse set forth, I doubt not but the rest of their proofs will be but reproofs in every honest man’s judgment.”<sup>1</sup>

In his Liverpool speech, Beecher cut down the discussion to one special issue, as follows :

“The power to create riches is just as much a part of the Anglo-Saxon virtues as the power to create good order and social safety. The things required for prosperous labor, prosperous manufactures, and prosperous commerce are three. First, liberty ; second, liberty ; third, liberty. Though these are not merely the same liberty, as I shall show you. First, there must be liberty to follow those laws of business which experience has developed, without imposts, or restrictions or governmental intrusions. Business simply wants to be let alone. Then, secondly, there must be liberty to distribute and exchange products of industry in any market without burdensome tariffs, without imposts, and without vexatious regulations. There must be these two liberties — liberty to create wealth, as the makers of it think best, according to the light and experience which business has given them ; and, then, liberty to distribute what they have created without unnecessary vexatious burdens. The comprehensive law of the ideal

<sup>1</sup> *The Aldine Poets.* Wyatt. Bell & Co. pp. lxx, lxxi.



industrial condition of the world is free manufacture and free trade. I have said there were three elements of liberty. The third is the necessity of an intelligent and free race of customers. There must be freedom among producers; there must be freedom among the distributors; there must be freedom among the customers. It may not have occurred to you that it makes any difference what one's customers are, but it does in all regular and prolonged business. The condition of the customer determines how much he will buy, determines of what sort he will buy. Poor and ignorant people buy little and that of the poorest kind. The richest and the intelligent, having the more means to buy, buy the most and always buy the best. Here, then, are the three liberties: liberty of the producer, liberty of the distributor and liberty of the consumer. The first two need no discussion; they have been long, thoroughly, and brilliantly illustrated by the political economists of Great Britain and by her eminent statesmen; but it seems to me that enough attention has not been directed to the third; and, with your patience, I will dwell upon that for a moment before proceeding to other topics.”<sup>1</sup>

The way in which an involved case may sometimes be made to turn on the settlement in the affirmative or the negative of one question, the proof or disproof of one idea, an experience of Abraham Lincoln's illustrates. Treating a murder case, he showed by clear exposition that the case rested on the testimony of a witness that he saw the fatal blow struck. When the witness was asked how he happened to see it, he said that he saw it because he was near by and there was bright moonlight. Lincoln, impressing upon the jury the importance of the words of this witness as the only weighty evidence against his cli-

<sup>1</sup> Liverpool Speech. H. W. Beecher. *Specimens of Argumentation* (Modern), pp. 160, 161.

ent, and the idea of the moonlight as the convincing part of that testimony, turned to an almanac and showed that on the night named there was no moonlight.<sup>1</sup>

#### THE METHOD OF FINDING THE SPECIAL ISSUE.

We find this special issue, whether one idea or a group of ideas, by further analysis. Knowing the origin of the question, we examine all the material we can gather on the proposition and decide (1) *What in regard to the topic, besides the definition of the terms and the origin of the question, may be admitted by both sides?* (2) *What ideas are wholly extraneous, though usually connected with the subject and likely to connect themselves with it?* In the Behring Sea question, the statements made on the origin of the question and the necessity for deciding the discussion on grounds of International Law would be matters admitted by both sides. Erskine, in beginning his defense of Lord George Gordon, admits the truth of one opening statement of his opponent, as follows :

“One observation he has, however, made on the subject, in the truth of which I heartily concur, viz., that the crime of which the noble person at your bar stands accused is the very highest and most atrocious that a member of civil life can possibly commit, because it is not, like all other crimes, merely an injury to society from the breach of some of its reciprocal relations, but it is an attempt utterly to dissolve and destroy society altogether.”<sup>2</sup>

Wyatt, in the extract given on p. 71, broadly excludes

<sup>1</sup> *Life of Lincoln*. Herndon & Weik. Vol. II, p. 358.

<sup>2</sup> *Specimens of Argumentation* (Modern), p. 92.

extraneous ideas, and Erskine, in his defense of Gordon, more specifically excludes them as follows:

“I trust I need not remind you (the jury) that the purposes of that multitude, as *originally* assembled on that day, and the purposes and acts of him who assembled them, are the sole object of investigation. All the dismal consequences which followed, and which naturally link themselves with this subject in the firmest minds, must be altogether cut off and abstracted from your attention further than the evidence warrants their admission. If the evidence had been *coextensive* with these consequences ; if it had been proved that the same multitude, under the direction of Lord George Gordon, had afterward attacked the bank, broke open the prisons, and set London in a conflagration, I should not now be addressing you. . . . But when it has appeared, not only by the evidence in the cause, but by the evidence of the thing itself — by the issues of life, which may be called the evidence of Heaven — that these dreadful events were either entirely unconnected with the assembling of that multitude to attend the petition of the Protestants, or, at the very worst, the unforeseen, undesigned, unabatted, and deeply regretted consequences of it, I confess the seriousness and solemnity of this trial sink and dwindle away. Only abstract from your minds all that misfortune, accident, and the wickedness of others have brought upon the scene, and the cause requires no advocate. When I say that it requires no advocate, I mean that it requires no argument to screen it from the guilt of *treason*. For though I am perfectly convinced of the purity of my noble friend’s intentions, yet I am not bound to defend his prudence, nor to set it up as a pattern for imitation: since you are not trying him for imprudence, for indiscreet zeal, or for want of foresight and precaution, but for a deliberate and malicious predetermination to overpower the laws and government of his country by hostile, rebellious force.”<sup>1</sup>

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 98, 99.

Professor Dicey, in his introductory chapter to his study of the report of the Commission of 1890 on the *Times* against Parnellism and the Land League, thus insists on the exclusion of all extraneous matter from the examination to be given the report and states what must be excluded.

“Our minds must be kept fixed upon the matter and the substance of the Report, and upon that alone. Scores of questions which have occupied, distracted or excited Members of Parliament have little real connection with the Report and are of no permanent importance whatever. Whether the Commission was appointed at the suggestion of the Unionists or in deference to the wishes of the Parnellites; whether the original creation of the Commission was an act of prudence or of indiscretion; whether the motives of the *Times* in publishing ‘Parnellism and Crime’ were patriotic or malignant; whether Pigott’s evidence had better have been introduced at an earlier period of the investigation before the commissioners than that at which it was brought forward, are inquiries which to any man whose eye is fixed on the permanent interests of the nation must appear trifles worthy neither of consideration nor answer. The questions which do concern the welfare of the state are of a very different calibre. What is the true character of the Parnellite movement? does the Land League merely tread in the steps of the Anti-Corn Law League and other perfectly lawful associations? are its authors constitutionalists or conspirators, agitators or revolutionists? These are the questions which are of vital importance to every man who has a care for the prosperity of the United Kingdom. To these inquiries the Commission’s Report does in some measure give an answer; to that answer and its results it will be well, as far as possible, to confine our attention.”<sup>1</sup>

<sup>1</sup> *The Verdict*. A. V. Dicey, Q. C. p. 8. Cassell & Co., 1890.

It is, then, by these two methods that Lord Erskine, and all careful workers in analysis, bring out clearly what is the special idea or group of ideas in the case.

THE FIFTH STEP IN ANALYSIS: TO FIND THE RELATION  
TO THE CENTRAL IDEA OF IDEAS ESSENTIAL IN THE  
CASE.

When we have separated from the material bearing on the case what may be admitted, we have left the central idea surrounded by a mass of uncorrelated and somewhat confused material that apparently has some bearing, not as yet accurately determined, upon the main issue. Doubtless in our analysis thus far we have seen that some ideas in the mass of material must be established as true, if the main issue is to be settled affirmatively, *i.e.*, we see the relation of these ideas to the main idea. We cannot, however, know what we believe about the question until we understand clearly in what way all of this matter is related, part to part, and centres about the special issue. Or, to put it differently, we must decide what ideas are to be proved true, and in what order, if the special issue is to be settled as we wish. Here we are studying, by analysis still, the inherent structure of the parts of which we spoke earlier. For instance, by the treaty between Great Britain and the United States, it was agreed that but five points should be submitted to the arbitrators who, in 1893, met in Paris to decide what rights to seal in Behring Sea the United States has. They were these :

“ 1. What exclusive jurisdiction in the sea now known as the Behring Sea, and what exclusive rights in the seal fisheries

therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

“2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

“3. Was the body of water now known as the Behring Sea included in the phrase ‘Pacific Ocean,’ as used in the treaty of 1825 between Great Britain and Russia, and what rights, if any, in the Behring Sea were held and exclusively exercised by Russia after said treaty?

“4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring Sea east of the water boundary, in the treaty between the United States and Russia of the 30th of March, 1867, pass unimpaired to the United States under that treaty?

“5. Has the United States any right, and, if so, what right of protection or property in the fur seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary three-mile limit?”<sup>1</sup>

These are the five matters which acute minds selected as essential from the mass of material attaching to this involved question. To fix on them as essential was the first step in the discussion. The method must, whether consciously or unconsciously used, have been that just explained at length. First, the central idea, the most important, was selected—5. Then came the question: How can this be answered? The reply was, By considering the claim of the United States that she acquired certain rights from Russia. Analysis of the material, uncorrelated as yet, showed that much of it could be put into a discussion considering whether this claim is correct. At once, however, the question arose: Did not the treaty

<sup>1</sup> *Behring Sea Tribunal of Arbitration*. Opinions of Mr. Justice Harlan, pp. 58, 59. Government Printing Office, Washington, 1893.

of 1825 between Great Britain and Russia say something that would affect these so-called rights of Russia? That, then, must be considered first, and we have a third discussion. But that question raised the general subject of what recognition Great Britain had given to Russian claims in Behring Sea. That again, before it could be discussed, necessitated a careful exposition of just the claims made by Russia. We see, then, how the other ideas in a case, as we consider them, gradually arrange themselves with reference to the main idea and with reference to one another.

This analysis, then, gives us the primary inherent structure in our material, the last important work of analysis. Evidently, in arranging this material with thought for its primary structure, it may be possible so to present it as to get more force, clearness, climax, in one way rather than another. Here we shall need to remember the laws of Rhetoric, which teach us about such matters, to study secondary structure for effective presentation of the primary structure. Plainly, when the material is carefully coördinated in our minds for primary and secondary structure, we can mass about the ideas the evidence in support of them,—in other words, we can make our brief.

SUMMARY. — It must be clear, then, that Analysis shows us (1) WHAT THE QUESTION IN DISPUTE IS, and (2) WHAT IS THE WORK TO BE DONE. This it does by (a) *giving us a proposition*, (b) *defining the terms*, (c) *showing us the origin of the question*, (d) *settling what facts are admitted by both sides*, (e) *cutting out extraneous ideas*, (f) *finding the special issue*, and (g) *determining the relations that the essential materials bear to one another*. It should be clear,

now, why drawing briefs will be the next step in our work.

### THE IMPORTANCE OF ANALYSIS.

A student in Argumentation cannot train himself too carefully in analysis, for the power to analyze keenly and correctly is fundamental in his work. A ready and correct use of this power is a marked characteristic of all men noted for argumentative skill. For instance, Mr. Lincoln's mind, it is said, "ran back behind facts, principles, and all things, to their origin and first cause — to that point where forces act at once as effect and cause. He would stop in the street and analyze a machine. He would whittle a thing to a point, and then count the numberless inclined planes and their pitch making the point. . . . Clocks, omnibuses, language, paddle-wheels, and idioms never escaped his observation and analysis. Before he could form an idea of anything, before he would express his opinion on a subject, he must know its origin and history in substance and quality, in magnitude and gravity. He must know it inside and outside, upside and downside. . . . He was remorseless in his analysis of facts and principles. When all these exhaustive processes had been gone through with he could form an idea and express it, but no sooner. He had no faith and no respect for 'say so's,' come though they might from tradition or authority. Thus everything had to run through the crucible and be tested by the fires of his analytic mind ; and when at last he did speak, his utterances rang out with the clear and keen ring of gold upon the counters of the understanding. He reasoned logically through analogy and comparison. All opponents



dreaded his originality of idea, his condensation, definition and force of expression; and woe be to the man who hugged to his bosom a secret error if Lincoln got on the chase of it. . . . Time could hide the error in no nook or corner of space in which he would not detect and expose it.”<sup>1</sup>

Of Chief Justice Marshall’s mind, one writer says: “It is not very richly stored with knowledge, but it is so creative, so well organized by nature, or disciplined by early education and constant habits of systematic thinking, that he embraces every subject with the clearness and facility of one prepared by previous study to comprehend and explain it. So perfect is his analysis that he extracts the whole matter, the kernel of inquiry, unbroken, clean and entire. In this process, such are the instinctive neatness and precision of his mind that no superfluous thought or even word ever presents itself, and still he says everything that seems appropriate to the subject.”<sup>2</sup>

Another writer says: “It was a matter of surprise to see how easily he grasped the leading principles of a case and cleared it of all its accidental incumbrances; how readily he evolved the true points of the controversy, even when it was manifest that he never before had caught a glimpse of the learning upon which it depended. Perhaps no judge ever excelled him in the capacity to hold a legal proposition before the eyes of others in such various forms and colors. It seemed a pleasure to him to cast the darkest shades of objection over it, that he might show how they could be dissipated by a single glance of light. He would, by the most subtle analysis,

<sup>1</sup> *Life of Lincoln*. Herndon & Weik. Vol. III, pp. 594, 595.

<sup>2</sup> *Sketches and Essays on Public Characters*. F. W. Gilmer.

resolve every argument into its ultimate principles, and then, with a marvelous facility, apply them to the decision of the case." <sup>1</sup>

<sup>1</sup> *Life and Letters*. Judge Story. Vol. II, p. 505. For both quotations see John Marshall. *American Statesmen*, p. 174.

## CHAPTER III.

### BRIEFS AND BRIEF-DRAWING.<sup>1</sup>

#### THE ORIGIN OF A BRIEF.

**S**TUDY of analysis has shown that the process of finding what is the question to be discussed and what the work to be done gradually develops in our minds a rough diagram of the field we are to cover. We learn that there is one essential idea, or one essential group of ideas, to prove true or false, and that a variable number of other ideas bear certain relations to the special issue and to one another, and must be taken up with some regard for this fact. It is evident that to put this inherent structure on paper must help us in gathering evidence, for we shall know what proof will be needed first, and shall have pockets, so to speak, into which we may put evidence bearing on the idea with which each pocket is labeled.

<sup>1</sup> The system of drawing briefs explained in this chapter has been developed during the last five years of the work in forensics at Harvard College. Lest the tone of the chapter may seem too dogmatic it may be well to say that since the system is an evolution, each year of forensic work making some improvements in it, teachers will probably find it wise to make some changes to meet the particular needs of their classes. The system is offered simply as a method which has greatly aided logical thinking and convincing argumentation among Harvard students, and has been used by some recent graduates with marked success in their practice as lawyers.

## THE RELATION OF THE BRIEF TO THE SUMMARY.

There are, of course, many possible forms into which an outline can be thrown. It may vary from a mere set of ideas that will suggest only to the worker himself the order in which he wishes to take up the parts of his case to an elaborate statement of the work to be done that needs but little filling in to be the complete argument. The latter is the lawyer's ordinary brief. In other words, the summary of the work to be done may vary in length, detail, and form. A student of Argumentative Composition, however, draws up these plans that he may make a clear and forcible presentation of his case, and that his outline may be criticized by his teacher before the forensic, the written argumentation developed from it, is handed in. His plan must, therefore, be something that will make a person who has not given any special thought to the case in question see exactly what is to be discussed and exactly what the student wishes to do with it. It must tell the examiner what the question is: must, that is, state the proposition; make clear in what sense important terms are used; show him the origin of the question; by making him understand what is generally admitted in regard to the subject and what matter usually associated with it is really extraneous, put the special issue before him; and make him see clearly what relations the other ideas bear to the main idea and to one another. That is, it must convey to another person just the information that the writer of the plan found it necessary to gain before he could treat his topic intelligently. Moreover, this outline must convey to a reader an idea of the general treatment the writer intends to

give the structure just mapped out, an idea, that is, of the nature of his evidence.

Clearly, then, mere rough notes or headings will not suffice where the writer's purpose is to make clear to another person just what he wishes to do with his case. For instance, here is such a set of notes as a speaker full of his subject and with it well mapped out in his own mind might hold in his hand as he addressed an audience, but to a second person unacquainted with the topic, or indeed to any one not so conversant with it as the speaker, the outline would be hopelessly vague.

### *Brief A.*

#### ARE THE IRISH JUSTIFIED IN USING ILLEGAL MEASURES OF RESISTANCE TO ENGLISH RULE?

- I. Definition of illegal measures.
  - II. Illegal measures sometimes justifiable. Revolution, Civil War, resistance to Fugitive Slave Act.
  - III. Respect in which they are justifiable.
  - IV. Do English rule and Irish resistance supply the conditions?
- Conclusion. -

As a very slight summary to aid a speaker this certainly might be of use, but as a brief, something to be submitted to a second person that he may understand what the writer wishes to treat as his question and how he wishes to treat it, such a summary fails completely. Evidently, then, what is wanted is not merely any summary of what is to be done, but *a particular kind of plan or summary that shall have the greatest possible clearness of exposition with the least number of words.* That is what

the subdivision *brief* (to be explained in this chapter) of the genus *plan* or *summary* is supposed to offer.

### THE THREE DIVISIONS OF A BRIEF.

A good brief ordinarily has three divisions : the Introduction, the Brief Proper, and the Conclusion.

*The Introduction* should state as concisely as possible, by suggestive phrases of a line or two, the facts necessary to an understanding of the discussion : namely, how the question arose ; what are the facts admitted by both sides ; and, by definition and exposition, what is the exact point at issue. It should clear away all extraneous matter and should place the essential idea, or group of ideas, clearly before the reader.

*The Brief Proper* should, by a series of headings and sub-headings, very concisely make clear to any intelligent reader the development of the argument by which the writer expects to prove the affirmative or the negative of the question he has clearly stated in the Introduction. The writer should first select the main ideas that prove his conclusion. These he should arrange so that his plan shall show the relations they naturally bear to one another and to the essential idea or group of ideas. In arranging the material he should as far as possible regard climax (see p. 147). All the *main headings and sub-headings should read as reasons for the conclusion*. The correlation of all the parts should be distinctly marked by letters and numbers.

*The Conclusion* simply sums up briefly the argument, showing clearly how it has led to a decision in the case. This decision — unless it is given at the beginning of the Brief Proper as the proposition — should always be stated.

## SOME REVISIONS OF BRIEF A.

The way in which a vague set of notes like those in Brief A may be made over into something that will convey clearly to the mind of a second person knowing little or nothing of the subject what the question means and what is the work to be done, the two following revisions of Brief A will show. The first is made from Brief A before the reviser has done any reading on the question. Knowing, however, the principles of brief-drawing he has carefully examined Brief A and thrown into rough brief form what it seems to him the writer of that brief probably wished to do. A reader will certainly see from Brief A 1 what the question is and what the writer of it thinks must be done with it.

*Brief A 1.*

## INTRODUCTION.

1. State first, very briefly, how the question happens to be under discussion.
2. What is illegal? [Quote the *Century Dictionary*, or any other good dictionary.]
3. By this definition the Irish have been guilty of illegal acts, in that
  - (1) They have broken the laws of Great Britain in regard to
    - (a) [State example.]
    - (b) [State example.]
4. Give a definition of justifiable. [See Dictionary.]
5. By means of 1, 2, 3, and 4 state the special issue.

## BRIEF PROPER.

## I. Illegal measures may be justifiable, for

## 1. Social reasons.

(a) Example.

## 2. Political reasons.

(a) Example.

## 3. Moral reasons.

(a) Example.

## II. The cases in Ireland fulfill these conditions, for

## 1. Social grounds demanded the acts.

(a) Example.

## 2. Political reasons demanded them.

(a) Example.

## 3. Moral needs called for the acts.

(a) Example.

III. For all these reasons the deeds of the Irish, though before the law illegal, were justifiable.

This Brief A 1, however, is a brief only by courtesy, for it is necessarily vague in the sub-divisions and does not fulfill all the conditions just named as characteristic of a good brief. Let us now, therefore, look at this draft, no longer in the rough, but filled in. Comparison of it with Brief A should make clear the difference between a mere summary and a brief.<sup>1</sup>

<sup>1</sup> A student should note that none of the briefs used to illustrate the different faults of brief-drawing and how they may be overcome is to be taken as a model for anything except the quality specially commended in it by the text. Some of them are faulty in many respects, but only one fault can be pointed out at a time. Briefs that are models throughout are printed at the end of the chapter.



*Brief A 2.*

INTRODUCTION.

I. By boycotting and by forcible resistance to eviction and other harsh measures of English rule in Ireland, the Irish have raised the question whether their wrongs are great enough to justify illegal acts.

II. Illegal measures mean what is contrary to the law of the land. [*Century Dictionary.*]

III. By this definition the Irish have been guilty of illegal acts, in that

1. They have forcibly resisted evictions made in accordance with the Land Laws.
  - (a) As individuals.
  - (b) As mobs.
2. They have committed assaults upon landlords who had evicted tenants by law.
3. They have even committed murder for reasons arising from the laws in force in Ireland.

IV. An act is justifiable that is defensible, warrantable. [*Century Dictionary.*] We may judge the defensibility of an act on social, political, and moral grounds.

V. The question becomes, then, this :

1. Can any illegal acts be defensible on social, political, or moral grounds ?
2. Can the admittedly illegal acts of the Irish be defended on these grounds ?

BRIEF PROPER.

~~I. Measures not strictly legal may be warrantable, defensible, for~~

- ~~1. Social reasons, for~~
  - ~~(a) When social corruption in San Francisco in its~~

## BRIEF PROPER.

I. Measures not strictly legal may be warrantable, defensible, for

1. Social reasons, for

(a) When social corruption in San Francisco in its early days was not successfully controlled by the regularly appointed officers, the Vigilante Committee removed the troubles by methods not strictly legal.

2. Political reasons, for

(a) When Great Britain oppressed the American Colonies, they gained by revolt and force what they could not gain by appeal and arbitration.

3. Moral reasons, for

(a) Posterity has justified the refusal, at a time of religious persecution, of men to conform to laws contrary to their beliefs.

(b) Later generations approve the conduct of those who in the Underground Railway acted contrary to the Fugitive Slave Law.

II. All these grounds for resistance exist in Ireland, because

1. The social exist, for

(a) The laws of England increase poverty, misery, crime, and death, among the people.

2. The political exist, for

(a) The English laws depopulate Ireland, through death and immigration.

3. The moral exist, for

(a) The sense of wrong and the misery that increase yearly in Ireland are demoralizing the people.

III. Moreover, history shows that compliance, pleading, arbitration, will not make England do Ireland justice; every

gain she has made she has forced by violent measures from England, for

- 1 Mr. Butt, as a leader pleading in Parliament, produced little or nothing.
- 2 Mr. Parnell and Mr. Biggar with their method of obstruction gained speedy results.
- 3 The terror aroused in Ireland by the illegal acts already done has aided the condition of the people.

*Conclusion.* — Because illegal resistance is sometimes justifiable, and all the grounds for it exist in Ireland; because only by violent measures, even by illegal acts, has she gained the little she has, Ireland is justified in taking illegal measures against England's laws.

The brief, then, is a particular kind of summary, and all summaries are by no means briefs. This latter idea a student of Argumentation should grasp once for all at the beginning of his study, for until he does grasp it he cannot draw good briefs.

## THE WORK OF THE THREE MAIN DIVISIONS OF A BRIEF.

If, now, we examine in detail the three customary divisions of a brief, we shall be able to understand better the work each should do and to see what are the evils which the directions already given as to brief-drawing are intended to obviate.

## AN INTRODUCTION.

### ITS LENGTH.

In the first place, the Introduction naturally varies in length. It gives, when the question is unusual or intricate, all the information suggested on p. 86 as possible

in an introduction. Often, however, so much detail is not needed. The origin of the question may be known to all, as in any discussion on some topic of the hour. For instance, when Lord Chatham spoke in the House of Lords in favor of the removal of the troops from Boston there was no need, at a time when all British eyes were on the American colonies, to explain the origin of the question. Often, too, there is nothing to be admitted by both sides beyond the definitions and the origin of the question, or nothing really extraneous that connects itself with the discussion. Sometimes there is no need to define terms, for all are clear upon their faces. Plainly, then, the introduction to a brief may vary from something that does little more than state the exact issue to be discussed to a more elaborate plan that embodies two, three, four, or all of the possible duties of an introduction.

#### THE TEST OF AN INTRODUCTION.

*The test of an introduction to a brief is that it shall supply a reader with whatever information must be needed by him, if he is to read the brief proper understandingly.* If for any reason the necessary information has not been given, the significance of the headings of the brief proper will not be apparent at sight, as should be the case. For example :—

#### *Brief B.*

CARLYLE'S ESTIMATE OF THE EIGHTEENTH CENTURY IS  
INCORRECT.

I. Introduction. Carlyle's estimate.

II. The eighteenth century was not a "decrepit, death-sick era," because beneath the apparent lassitude of the age forces

were at work, mental, moral, and social, which contained the seeds of the best fruit that the nineteenth century has produced.

III. The eighteenth century was not an era of hypocrisy and cant, etc., etc.

The headings II. and III. of what is really the brief proper in this illustration have no significance, no conclusiveness as arguments, because the reason for taking as tests of the question, whether the time was a "decrepit, death-sick era," an "era of hypocrisy and cant," is not clear. Why, even if the statements made in II. and III. are proved true, Carlyle's estimate is necessarily false, needs explanation. All this uncertainty arises because the writer has not seen fit in his introductory matter to quote Carlyle's estimate and to bring out strongly that the two tests Carlyle applies are those which appear in II. and III. Comparison of this brief with a revision of it will show the advantage that comes from a good introduction to a brief.

### *Brief B 2.*

#### INTRODUCTION.

A. "There is much lying yet undeveloped in the love of Boswell for Johnson. A cheering proof, in a time which else utterly wanted and still wants such, that living wisdom is quite *infinitely* precious to man, is the symbol of the God-like to him, which even weak eyes may discern; that loyalty, Discipleship, all that was ever meant by *Hero-worship*, lives perennially in the human bosom, and waits, even in these dead days, only for occasions to unfold it, and inspire all men with it, and again make the world alive. James Boswell we can regard as a practical witness, or real *martyr*, to this everlasting truth. A wonderful martyr if you will; and in a time which made such

martyrdom doubly wonderful: yet the time and the martyr perhaps suited each other. For a decrepit, death-sick Era, when CANT had first decisively opened her poison-breathing lips to proclaim that God-worship and Mammon-worship are one and the same, that life was a *Lie*, and the earth Beelzebub's, which the *Supreme Quack* should inherit; and so all things were fallen into the sere and yellow leaf, and fast hastening to noisome corruption: for such an Era, perhaps no better prophet than a parti-colored Zany-Prophet, concealing from himself and others his prophetic significance in such unexpected vestures, — was deserved, or would have been in place." — T. Carlyle. "Essay on Boswell's Life of Johnson." *Essays*, H. & M., 1881. [pp. 82–83.]

B.<sup>1</sup> Briefly, then, Carlyle asserts that the Eighteenth Century was

1. Decrepit, death-sick, a time when all things were hastening to noisome corruption.

2. The reign of Cant instead of Truth.

C. The question becomes, then: Are these two statements correct?

#### BRIEF PROPER.

I. We can properly assume that there is good ground for differing with Carlyle as to his statements, for

(a) An historian of at least equal rank with Carlyle, Lecky, draws, in his *History of European Morals*, quite opposite conclusions as to the Eighteenth Century.

II. The Eighteenth Century was not the triumph of Cant.

A. Because Swift and Johnson, men who despised the false, the untrue, were the leaders of thought.

<sup>1</sup> A reader will see how much the brief gains in clearness from this statement of the gist of the long and involved quotation.

*B.* Because an earnest search for truth was going on, for

(*a*) It was the period of the great deistic controversy.

*C.* Because it was a time of reforms, for

(*a*) Prison reforms were beginning, Charity Schools were establishing, etc.

III. The Eighteenth Century was not a decrepit, death-sick era, for it contained the beginnings of the best the Nineteenth Century has produced.

*A.* Mentally, for

I. The scientific spirit in thought arose.

*B.* Socially, for

I. Human sympathy broadened ; there was growth in the feeling of the brotherhood of man.

*C.* Morally, for

I. There was a reaction from Restoration manners.

IV. Since, then, the best literary thought of the time was sound and wholesome ; since the period produced reforms ; since the best in this century is the result of work begun in the Eighteenth Century, Carlyle's estimate seems incorrect.

For another illustration of this very important rule consider the following brief.

### *Brief C.*

THE GOTHENBURG PLAN FOR SOLVING THE LIQUOR QUESTION PRACTICABLE IN MASSACHUSETTS ?

Proposition :

The Gothenburg plan is practicable in Massachusetts.

*A.* Introduction.

*B.* The evils of the present system of liquor selling.

C. Gothenburg system :

- (a) Defined, (1) its aim, (2) ground idea.
- (b) Advantages.
- (c) Disadvantages.

D. Argument :

1. Has been tried successfully in Norway and Sweden.  
No reason why it should not prosper in Massachusetts.
2. It is lawful.
3. Money is used for the benefit of the public at large.
4. Consumers of liquor would be satisfied.
5. Prohibitionists would be satisfied.
6. Increase in savings-bank deposits in Sweden.
7. Modifications.
8. The decrease of crime.
9. The decrease of the consumption of liquor.

E. Conclusion.

It must be clear at once to any thoughtful reader of this brief that 2-6 of the "Argument" lack all convincingness, even significance. He will ask himself: "Even though I see that the plan must be lawful if it is to be practicable, why must it distribute money for the public at large, why must it satisfy consumers of liquor and Prohibitionists; why are these very important tests? Moreover, granted that they are, what have I read in this brief, what do I now read, that shows the truth of these statements?" To appreciate the significance, the force, of the headings, a reader needs the information to which the writer refers vaguely in his introduction in the words: "The evils of the present system of liquor-selling; the Gothenburg System, (a) defined, (1) its aim, (2) ground



idea." He needs, too, information which the writer does not give him as to the tests that must be applied if the plan is to be judged, not, as the writer seems to think, good in theory, but practicable in Massachusetts. Never, in an introduction to a brief, therefore, write, "Definition of the terms," "Provisions of the treaty," "The conduct of Hamilton," "Carlyle's estimate," "The Gothenburg system defined," "Sources of the trouble," *i.e.*, *Never in an introduction use vague phrases referring to important matters that a reader must understand if the significance of the headings of the brief proper as tests is to be clear to him. Instead, state the necessary ideas so that he cannot fail to grasp their meaning. Be as brief always as is possible without sacrificing clearness. The best phrasing for such information is a statement.* That is, it is better to say: "Carlyle asserted this or that (quotation)" rather than "Carlyle's estimate"; "France and the United States made a treaty in 1778," "Its provisions were," etc., rather than "The treaty of 1778," "Its provisions." Comparison of Brief C. with the brief that follows will show the clearness and the effectiveness gained by carrying out the directions given thus far.

### *Brief C I.*

WOULD THE NORWEGIAN SYSTEM OF LIQUOR-SELLING BE  
PRACTICABLE IN MASSACHUSETTS?

#### INTRODUCTION.

#### I.<sup>1</sup> The Norwegian System.

- A. The liquor traffic in any town is controlled by a single stock company. This company is licensed

<sup>1</sup> Report of the House, pp. 90-167.

to sell liquors, and its laws are approved by state authorities. It invests only the capital necessary to conduct the business, and receives in return but a fair per cent on the capital invested. The profits go to benefit objects established for the public good.

- B. Its saloons are conducted by managers who are paid fixed salaries, who are allowed to sell nothing for their own profit, and who must order all liquor from the company's warehouses.
- C. As few saloons as possible to supply the demand are provided. The amount of liquor sold to each consumer is limited. Liquor may not be sold at all to minors or to intoxicated persons. The consumer must leave the place on finishing his dram. Rules governing the place and price-lists are posted in its bar-rooms.
- D. That the company may not violate its principles, its books and the details of the business are open to the inspection of state authorities, and annual reports of the details are published. That the company may enforce its principles, it employs its own detectives to see that its licenses are not infringed, and it employs inspectors to examine the accounts of its managers to see that the rules of its bar-rooms are executed.

II.<sup>1</sup> A bill to introduce the system came before the Massachusetts legislature last spring.

- A. By the bill shareholders could receive but five per cent on the capital. It further specified that profits should go to benefit the public; that the business should be subject to the inspection of the Savings Bank Commissioner; that annual

<sup>1</sup> Report of House, pp. 6-15.

reports of the details should be published ; that the company should be subject to existing penalties for violation of license laws ; that saloons could not number more than one to every ten thousand inhabitants ; and that when adopted by any town the system should run three years.

*B.* The object of the bill was to make the system permissive, not obligatory.

III. The desirability of such a system is evident from

*A.* The acknowledged evils of our present system.

*B.* The fact that Cambridge, though "no-license," suffers from the high license in Boston.

IV. Though the desirability is admitted, there is fear that the system is not practicable, *i.e.*, could not be put into practice, for

*A.* Prohibition, as is well known, could not be enforced when a law.

*B.* The system might be, as is the present traffic, a political evil.

#### CORRELATING INTRODUCTIONS.

It will be noticed that in this last brief the statements made are carefully marked by letters and numbers which accurately show the relations of the sentences to one another. The value of this careful correlation of the introductory statements will be clear if we compare a correlated and an uncorrelated introduction.

Here is an uncorrelated introduction :—

*Brief D.*

## DOES THE GORGE OF THE NIAGARA RIVER AFFORD A SUFFICIENT INDEX OF THE DURATION OF POST-GLACIAL TIME?

## INTRODUCTION.

It is admitted by all that the gorge, as we now know it, has been cut since the close of the ice age, that it is increasing in length at the cataract end, and that the cataract is the cause of the increase. In attempting to estimate the duration of post-glacial time, certain geologists like Wright, Spencer, and Lyell, state that it is merely necessary to determine the rate at which the length of the gorge is now increasing, and then to compute from the known length of the gorge the time it has taken to form the whole. Other geologists such as Gilbert and Shaler assert, however, that the rate of erosion has varied for several causes, and also that there was a period of unknown duration between the close of the ice age and the birth of the river, and that, therefore, the methods and results of Wright, Spencer, and Lyell are inaccurate.

In the following the same material is properly correlated :—

## INTRODUCTION.

- I. It is admitted by all geologists that
  - (a) The gorge of the Niagara River, as we know it, has been cut since the close of the ice age.
  - (b) It is increasing in length at the cataract end.
  - (c) The cataract is the cause of the increase.
- II. Certain geologists, — among them Wright, Lyell, and Spencer, — in attempting to estimate the duration of post-glacial time, think it necessary
  - (a) Merely to determine the rate at which the length of the gorge is now increasing,

- (b) And then to compute from the known length of the gorge the time it has taken to form the whole.

III. Other geologists — among them Gilbert and Shaler — think that the methods and the results of Wright and the others are inaccurate in that

- (a) The rate of erosion has varied for several causes.  
 (b) There was a period of unknown duration between the close of the ice age and the birth of the river.

Certainly it is easier to understand the origin of the question, the facts admitted by both sides, etc., in the second brief. Such correlating both makes the ideas clearer and saves time. *Care should be used in correlating the parts of an introduction to see that the lettering or the numbering suggests exactly the relation of any idea to those ideas which surround it.* In Brief C, for instance, *A*, *B*, *C*, and *D* are not really on the same footing. *A* and *D* are ; so are *B* and *C*, but they are subordinate to *A*. The writer should have correlated his work in one of these two ways :

#### I.

##### INTRODUCTION.

- A.* The evils of the present system of liquor-selling.  
*B.* Gothenburg system, etc.

##### ARGUMENT.

or

#### 2.

- A.* Introduction.  
     1. The evils of the present system of liquor-selling.  
     2. Gothenburg system, etc.  
*B.* Argument.

In a word, ideas of equal value should be marked by letters or numbers of the same kind. A change in numbers or letters should denote a change in the relations of the material.

### DOUBLE MARKING.

A fault in correlation that often causes considerable confusion is double marking. Here is a case of it :—

#### *Brief E.*

DID THE COUNCIL OF CONSTANCE MAINTAIN THE PRINCIPLE THAT IT WAS NECESSARY FOR THE CHURCH TO KEEP FAITH WITH A HERETIC?

- I. Introduction : (*a*) Plea for impartiality; (*b*) Argument, Outline of.
- II. 1. Definitions of important words and phrases as (*a*) Council of Constance, (*b*) Maintain, (*c*) Church, (*d*) Heretic.
2. Restatement of proposition.

It is clear that the second paragraph is here treated as both II. and 1. But evidently it cannot be both, for if it is the first, it is of equal value with I.; if it is the second, it is subordinate to I. The question is which is the correct marking. Since correlating is used simply to show rapidly the relations of the ideas one to another, this over-correlating defeats its own ends and is no better than none at all. Really 1. should be struck out. Then the correct relations of the parts are seen at once. *In a brief one letter or figure is sufficient for one idea or statement.* Correct correlating is not usually difficult in an introduction, but as we shall soon see it is not always easy in the brief proper.

## THE PROPER CONNECTIVES IN AN INTRODUCTION.

It will be noticed in the revisions of poor briefs thus far given that the component parts are connected not only by carefully chosen numbers and letters, but also by different conjunctions. The selection of these may, with one suggestion, be left to the individual writer. The suggestion is this: since we shall soon see that the conjunctions *for* and *because* are invaluable in the brief proper to connect headings and sub-heads which stand in the relationship of proposition and proof, it is helpful not to use them in the introduction, for in this we are supposed to give only what is not argumentative, and the presence of *for* or *because* makes a reader feel as if the argument had begun before it should. The following is a specimen of neat correlating in an introduction without the use of the two signs of argumentation.

*Brief F.*

ARE THE ASTRONOMICAL CONDITIONS DESCRIBED IN CROLL'S  
THEORY SUFFICIENT TO ACCOUNT FOR THE CLIMATIC  
CONDITIONS OF THE GLACIAL EPOCH?

## INTRODUCTION.

A. Geological deposits and markings show that during the  
Glacial Epoch

I. Great regions in northern continents which now have  
a temperate climate were sheeted with glaciers, *e.g.*,

(a) Europe more or less completely as far as the  
fiftieth parallel.<sup>1</sup>

(b) North America almost entirely as far as the  
fortieth parallel.<sup>1</sup>

<sup>1</sup> Sir Charles Lyell, *Principles of Geology*, ed. 1867, vol. I, p 194.

- II. These glaciers were confluent, not only filling the valleys, but flowing over mountains.<sup>1</sup>
- III. They are known to have been a mile and a half deep in New England, and were perhaps deeper in other places.<sup>2</sup>
- B. Present study of glaciers shows certain conditions to be necessary for their formation, *viz.*,<sup>3</sup>
  - I. Cold — either from altitude or high latitude — for the formation and accumulation of snow.
  - II. Humidity, to provide the material for snow.
  - III. Alternate thawings and freezings, for the consolidation of snow and ice.
- C. Possible causes for the Glacial Epoch.
  - I. Geographical.
    - (a) Grouping of the lands in polar regions. Sir Charles Lyell's theory.
    - (b) General elevation and broadening of northern continents, together with the deflection of the Gulf Stream into the Pacific Ocean.
  - II. Astronomical.
    - (a) Various theories which have been exploded.<sup>4</sup>
    - (b) Croll's theory.<sup>5</sup>
      - 1. The eccentricity of the earth's orbit varies, the length of the major axis changing; and thus the ratio between aphelion and perihelion distance varies, aphelion and peri-

<sup>1</sup> Shaler and Davis, *Illustrations of the Earth's Surface, Glaciers*, ed. 1881, p. 38.

<sup>2</sup> *Idem*, p. 45.

<sup>3</sup> Le Conte, *Elements of Geology*, ed. 1894, p. 46.

<sup>4</sup> *Idem*, p. 590.

<sup>5</sup> Though what follows is carefully done, it at best shows the need in this, as in many briefs, of a diagram. Only by a drawing can this theory be made clear to the general reader.



helion being respectively the earth's greatest and shortest distances from the sun.<sup>1</sup>

2. The precession of the equinoxes causes the seasons of each hemisphere to occur successively in every part of the orbit, *e.g.*,

(a) Our winter occurs now during perihelion, but after about ten thousand years, we shall have aphelion winter.<sup>2</sup>

3. "A high condition of eccentricity tends, as we have seen, to produce an accumulation of snow and ice in the hemisphere whose winters occur in aphelion."<sup>3</sup>

*D.* We are to consider, then, whether or not concurrence of maximum eccentricity and aphelion winter is a sufficient cause for the glaciers which are known to have existed during the Glacial Epoch.

### PREJUDICED INTRODUCTIONS.

A kind of introduction to avoid is the prejudiced and therefore prejudicial. This states as indisputable matters which are debatable. A shrewd reader will at once challenge these prejudiced statements, and the careless writer will be forced to begin debating in his introduction, before he is really ready. If the writer's statements are not challenged, he has won his case before he begins to argue, for his reader tacitly assents to statements that grant him everything for which he can ask. Here is a prejudiced introduction :—

<sup>1</sup> Shaler and Davis, *Illustrations of the Earth's Surface, Glaciers*, ed. 1881, p. 74.

<sup>2</sup> Godfrey, *A Treatise on Astronomy*, ed. 1880, p. 22.

<sup>3</sup> See note 1.

*Brief G.*WAS IT WISE FOR ADAMS TO SEND THE ENVOYS TO FRANCE  
IN 1799?

## I. Relations between France and the U.S. in 1799.

A. France had held the U.S. in contempt, and had insulted the nation by :

(a) The conduct of her own ministers in the U.S.

1. In 1793 Genet had acted in a presumptuous and overbearing manner, trying to fit out ships and recruit men for France, as if the U.S. were a dependent province.

2. Adet had tried to influence the election of 1796.

(b) Her treatment of our envoys.

1. The recall of Gouverneur Morris had been demanded, because he did not favor the excesses of the French Revolution.

2. C. C. Pinckney was not received, because the Directory were angry at the recall of Monroe and at the result of the election of 1796.

3. The disgraceful X. Y. Z. demands for a bribe were a direct insult.

(c) By her depredations on our commerce, contrary to treaty and neutral rights.

B. (a) Adams in 1798 declared diplomatic relations broken off.

(b) An army and a navy were organized ; merchants' vessels were armed ; and several successes gained at sea.

C. France became alarmed, and in an indirect way signified a desire to renew negotiations.

The writer of this brief begs the question entirely before he reaches the brief proper. What a reader needs to know is that after the United States had, in 1798, for reasons which seemed to it good, broken off diplomatic relations with France and prepared for war, it sent, in 1799, envoys to France to negotiate with her. The general grounds for the original breaking off of diplomatic relations, the reason stated for sending envoys should be given, but evidently the writer must not in starting commit himself as to the justice or the injustice of the reasons for which the United States broke off diplomatic relations, the satisfactoriness of the way in which France asked for negotiations. Proof in regard to these matters must settle the question one way or the other. This writer, however, has no compunctions about treating these matters, and in the heading I. *A* with its sub-heads (*a*) 1, 2, (*b*) 1, 2, 3, and (*c*) settles with a set of assertions the very matters which must be debated. If we challenge these statements, he must argue before he has put before us the necessary introductory material, — for most of that is in *B* and *C*. Such a method means confusing, ineffective work. If we do not challenge his statements, we have granted him more than half his case: namely, that the United States was entirely justified in breaking off diplomatic relations and, unless a spirit of great repentance and conciliation was shown by France, was not justified in sending envoys. When the writer adds in *C* that France, after all this evil-doing, signified her desires only in an indirect way, we feel more strongly still that the United States could not have been justified in sending envoys. That is, the writer really begs the second point.

If this brief is compared with Brief D or F, the value

of the unprejudiced introduction will be evident. The prejudice in an introduction is not usually difficult to detect, for some phrase like "presumptuous and overbearing manner," "the disgraceful X. Y. Z. demands," of this writer will show the reader that he is dealing with a man whose vocabulary is not impartial, and who, therefore, is probably not impartial in his opinions.

#### NARROWING THE QUESTION.

It is often helpful when the introduction is long, or the exact topic to be discussed differs in wording from the question heading the brief, to state as the last division of the introduction to just what the discussion narrows. This has been done in Brief *C* 1, p. 99, and in division *D* under Brief *F*, p. 105.

#### SUMMARY.

In the introduction of a brief, then, a writer phrases only what both sides must admit to be true. This he words as briefly and yet clearly as he possibly can, in carefully correlated statements. He makes clear the exact issue to which the discussion narrows. The final test of his work in an introduction is that it shall lead clearly to the brief proper, giving a reader just the information he needs if the significance of the statements made in the brief proper, the trend of the argument, is to be clear to him.

#### THE BRIEF PROPER.

In the brief proper a writer phrases as succinctly as possible the ideas which he thinks must be proved true if his conclusion is to be admitted. For the support of these

ideas he gathers proof, — whatever generates belief in the mind of a reader, — and he must convey to his reader some idea of the nature of the proof by which he intends to show the truth of each of the ideas he phrases in the brief proper. The proof that a writer will use divides itself roughly into two parts: direct proof and refutation. When a writer simply states an idea of his own, and supports it, that is direct proof; when he takes an idea urged against him by his opponent, and tries to overcome it, he refutes. If the objection is a broad one, — to the writer's case as a whole, — it should stand by itself; if it is an objection to some division or subdivision of the writer's work, he will meet it best in treating that division or subdivision. That is, his idea is proved true not only by proving *a*, *b*, and *c*, reasons for it, but by disproving the statement *d* in regard to it made by his opponent.

#### THE TWO KINDS OF REFUTATION.

When Lord Chatham, in urging the removal of the troops from Boston, argued that they should be withdrawn because

- A. It will show the willingness of the English to treat amicably;
- C. The means of enforcing the measures of Parliament have failed;
- D. If Parliament tries by the aid of the army to enforce its measures the result will be bad;

he stated his own ideas, used direct proof.

When, however, he urged the withdrawal of the troops because --

*E.* The statement that the armies in America cannot last is untrue, for

1. The evidence of the "commercial bodies" is unreliable, for, etc.,

he answered an objection made by his opponents to his main proposition. This part of his work, then, *E*, is general refutation.

If, now, we look at the development of division *C* of his work, we shall see that a third kind of work appears in it.

*C.* The means of enforcing the obnoxious measures have failed, for

1. The army of General Gage is "penned up, — pinning in inglorious inactivity."
2. Though it is said that the army in America is a safeguard, yet this is not true, for
  - (a) It is powerless and contemptible, and
  - (b) It is irritating to the Americans.
3. Though it is said that General Gage is needlessly inactive, yet this is untrue, for
  - (a) Any activity on his part would mean "civil and unnatural war."

Here Lord Chatham shows the truth of the sentence *C*, by giving an idea 1 of his own, and by refuting two statements of his opponents, 2 and 3, which they make in contradiction of his assertion *C*. The work done in *C*, 2 and 3, is, then, special refutation, for the objections met are not made to the main proposition, that the troops should be withdrawn from Boston, but to one of the ideas by which Lord Chatham hoped to make good that statement. Objections made to the main proposition call, then, for general refutation; objections raised to other parts of the work than the main proposition call for special refutation.

## HOW TO ARRANGE REFUTATION.

Special objections should be treated at once when they arise, for, as the illustration just given shows, they block the movement of the argument until they are cleared away. There is, however, no one rule for arranging general objections. If they are important, and generally accepted as true, it is often wise to treat them before expounding one's own views on the question. Doing this, a student will prevent his audience from silently controverting his ideas, as he develops them, with arguments that he is entirely prepared to answer. The following brief shows this arrangement of the refutation:—

*Brief H.*

## IS THE EXPULSION OF THE JEWS FROM RUSSIA JUSTIFIABLE?

## INTRODUCTION.

- I. After the anti-Jewish riots of 1881 in Russia, a number of laws called the May Laws were issued with the imperial sanction, May 3, 1882; the gist of which was the restriction of the Jews to Poland and the towns within what is known as the Jewish Pale of Settlement, *viz.*: Little, Western, and Southern Russia; and the avowed object of which was "the complete, though gradual, withdrawal of the Jews from the open country."<sup>1</sup>
- II. In the winter of 1889-90, these laws, which had been allowed to fall into abeyance, began to be enforced with the greatest strictness, and the Jews were driven back in great numbers to the towns within the Pale.

<sup>1</sup> *The Persecution of the Jews in Russia*, p. 9. Issued by the Russo-Jewish Committee, London, 1890.

III. An act is justifiable that is defensible, warrantable (*Century Dictionary*).<sup>1</sup>

IV. Both parties agree<sup>2</sup> that the expulsion was not made, primarily, on religious grounds, therefore I shall set aside this consideration in my discussion of the question.

#### REFUTATION.

A. It is claimed that the expulsion of the Jews is defensible on

I. Economic and social grounds, for

1. The Jews are a parasitic race.

(x) They do not engage in productive labor, neither

(a) Manual labor, nor

(b) Agriculture.

(y) By exploitation they absorb the national wealth.

2. They demoralize the people and cause the drunkenness of the peasants, for

(x) They sell them "vodka."

II. National grounds, because

1. The Jews do not assimilate with the people, but are exclusive and "tribal."<sup>3</sup>

(x) They unite in the corporation of the Kabal for the exploitation of the Christians.

(y) They are separated from the rest of the people by the rite of circumcision.

2. They are not loyal subjects.

(x) They shun military service.

(y) They are the source of Nihilism and disaffection.

<sup>1</sup> A reader should note that the writer of this Brief, though he seems satisfied with a very vague definition, really is not, and as he shows in A I. and II., has tests in mind by which to judge "defensible, warrantable."

<sup>2</sup> Goldwin Smith, in *North American Review*, August, 1891, p. 139, affirmative; Isaac Besht-Bendarid, in *North American Review*, September, 1891, p. 258, negative.

<sup>3</sup> Goldwin Smith, same reference, p. 138.



**B. The expulsion of the Jews is *not* defensible on**

**I. Economic and social grounds, for**

**1<sup>1</sup>. The Jews are not a parasitic race.**

(*x*) In several of the towns of the Pale they form 90 per cent of the whole population, and in all the towns a large majority, and it is absurd to suppose they could be supported by the remaining 10 per cent or 20 per cent.

(*x*<sup>1</sup>) They do engage in productive labor.

(*a*) In 1888 12 per cent of all the Jews within the Pale were artisans, a larger proportion than the same class maintains in France (10 per cent) or Prussia (9.1 per cent).

(*b*) In fact the Jews very nearly monopolize the manual trades within the Pale, performing even the roughest labor, as blacksmiths, diggers, carriers, etc.

(*c*) There are, besides, a considerable number of artisans outside the Pale, who are permitted to live outside the Pale because of their occupation.

(*x*<sup>2</sup>) If they do not engage extensively in agriculture in Russia, it is not because they are not inclined to, but because they are forbidden by the laws

(*a*) To own or lease land;

(*b*) To live in the country.

(*x*<sup>3</sup>) They have shown themselves to be successful agriculturists, when given an opportunity.

1. In Hungary and Turkey in the past.

2. In the colonies recently founded in the Argentine Republic and in Palestine.

(*x*<sup>4</sup>) The failure of the colonies founded by Nicholas was not due to the Jews but to the conditions by which they were restricted and hampered.

(*y*<sup>1</sup>) It is true that many of the Jews are middlemen, yet this is not a good reason for expelling them, for

1. They have been forced to become such by the laws that shut them out from
    - (*a*) The professions,
    - (*b*) All official posts, from mayor down to school teacher,
    - (*c*) Agriculture, and
    - (*d*) Shut them into the towns, which become so crowded that there is not enough work for all.
  2. All middlemen are not exploiters.
  3. The number of exploiters must be small, for nearly 80 per cent of the Jews are wretchedly poor, and half of the rest are artisans.
  4. The repression of the Jewish exploiters would create a monopoly for the Orthodox exploiter, and so really raise the interest for the artisan and peasant.
- 2<sup>1</sup>. They do not demoralize the people and cause the drunkenness of the people, for
- (*a*) The peasants are fully as much addicted to drunkenness in the part of Russia where the Jews are not allowed as they are within the Pale.
  - (*b*) The Jew is no more justly to be accused of selling "vodka" than the Christian.

## II. National grounds.

- 1<sup>1</sup>. They are forced apart from the rest of the people by the laws of the government, for
  - (*x*<sup>1</sup>) The corporation of the Kabal was forced on them by the rulers of Europe for their financial benefit.

(*x*<sup>2</sup>) It is maintained merely for the purpose of furthering their common interests, not for the purpose of extortion.

(*y*<sup>2</sup>) The rite of circumcision is not peculiar to the Jews, and does not force them to become "tribal."

1<sup>2</sup>. A Russian governor has declared that the Jews in the south of Russia have become entirely assimilated to the people.<sup>1</sup>

2<sup>1</sup>. History shows that they are loyal subjects, for

(*x*) They are long attached to the soil where they are placed.

(*a*) The German Jews in 1815.

(*b*) The Spanish Jews.

(*c*) The Jews of the Vistula.

(*x*<sup>1</sup>) They do not shun military service any more than the Christians do.

(*x*<sup>2</sup>) If they did, they would not be equally blameworthy, for

(*a*) They are not allowed to hold office in the army.

(*b*) Service in the army makes difficult the observance of religious ceremonials.

(*c*) The punishment for evasion of military service is much more severe for the Jews than the Christians.

(*d*) They are granted no civil rights to compensate for bearing the civil burdens.

(*y*<sup>1</sup>) It is true that Jews and Jewesses were found among the Nihilists, but so also were Russian nobles and clergymen, and it is as unjust and absurd to say that all the Jews sympathize with the Nihilists, as to say all the Russian clergy and noblemen do.

<sup>1</sup> E. B. Lanin, in *Fortnightly Review*, October, 1890, p. 485.

- (2) Goldwin Smith, their opponent, himself admits that the Jew is "always and everywhere a conforming citizen, and refuses none of the burdens of state, though making them as light as he could."<sup>1</sup>

#### GENERAL PROOF.

- I. The results of the expulsion of the Jews are injurious to the country.
  1. Commerce is seriously crippled by it.
    - (a) It is already apparent that the flour industry has been injured by its withdrawal from the hands of the Jews.
    - (b) The recent fair of Nijni Novgorod was a failure, owing to the absence of Jewish traders.
  2. The strong and energetic part of the Jewish population are emigrating, leaving the feeble and helpless to burden the government.
  3. These immigrants are spreading influences hostile to Russia over the world.
  4. The parts of the country whose loyalty is of prime importance, in case of a German or Polish invasion, have been rendered disaffected.
- II. The expulsion of thousands of innocent and impoverished people from the land that their fathers inhabited centuries before it came into possession of the Russians is an offense against the moral sense of the civilized world.

#### RECAPITULATION AND CONCLUSION.

Since, then, the expulsion of the Jews from Russia is not defensible on economic, social, or national grounds, and since, in its results, it is injurious to the country of Russia, and since,

<sup>1</sup> In *North American Review*, August, 1891, p. 141.

furthermore, it offends the moral sense of the civilized world, I conclude that the expulsion of the Jews from Russia is not justifiable.

When, on the other hand, an audience is unprejudiced, or knows scarcely anything about either side of the question, a writer may first develop his own case and then at the end consider the general objections. Of course, if he follows this method, he must be sure that his answers to the general objections are, either by themselves or taken with his preceding direct proof, conclusive, for he cannot afford to give his reader just at the end of the argument the feeling that important objections of the other side have not been satisfactorily met. This arrangement, which puts the general refutation at the end, the following brief shows :—

### *Brief I.*

#### WAS SWIFT MARRIED TO STELLA?

##### *Brief for the Affirmative.*

##### INTRODUCTION.

##### *A.* All agree that

1. Swift was for many years on intimate terms with Stella and addressed her in words of warmest affection in his *Journal*;
2. She was in love with him ;
3. He never openly recognized her as his wife.

##### *B.* But it has been frequently contended that he was *secretly* married to her.

##### PROOF.

##### *A.* The evidence shows that Swift married Stella, for

- I. Personal acquaintances of Swift disclose the fact of the marriage.

1. Orrery asserted it.
  2. The objection that Orrery made qualifying statements is not well founded, for
    - (a) These refer not to the fact of the marriage, only to details.
  3. Delany asserted it.
  4. The objections that Delany's statement (a) merely confirms his belief in Orrery's "Remarks"; (b) that neither goes beyond assertion; (c) that they give no evidence to support their view, do not weaken Delany's testimony, for
    - (a<sup>1</sup>) This argues for the truthfulness of Orrery's testimony.
    - (b<sup>1</sup>, c<sup>1</sup>) Orrery and Delany were personal acquaintances of Swift and did not consider it necessary to confirm a simple statement of facts by oaths, or by the testimony of others.
- II. The unsought evidence which other persons have given confirms the statements of Orrery and Delany.
1. Dr. Ashe, the Bishop of Clogher, who performed the ceremony, confirms the fact of the marriage: his testimony comes directly through Berkeley, to whom he communicated it.
  2. The objection that this evidence is not well founded: (a) because the marriage is said to have taken place in 1716; (b) Ashe was in Ireland in 1716 and 1717, and died near the end of 1717; (c) Berkeley was abroad from 1715 to 1721, does not hold, for
    - (a<sup>1</sup>) It is not asserted that the communication was made by word of mouth.
    - (b<sup>1</sup>) It is not only possible, but very probable, that Berkeley, while abroad, corresponded with Ashe; for he was away as tutor of Ashe's son.

3. The marriage is confirmed by Stella, the only other person besides Swift and Ashe who was present. Her testimony comes through

- (a) Madden.
- (b) Dean Swift.
- (c) Sheridan.

*B.* The character of the evidence is good, for

1. The witnesses were persons of integrity and standing.
2. They either knew the facts personally, or learned them from persons who did know.
3. Their testimony was given at different times and by different persons; it differs in details, but agrees in the fact that there was a marriage.
4. The objection that there are conflicts in some of the statements does not lessen the value of the evidence, for
  - (a) No two witnesses can give details exactly alike.
  - (b) The general fact that there was a marriage is present in all the testimony.

REFUTATION.

*A.* The evidence which is used to prove that Swift was not married to Stella is not good, for though it is said that

1. Stella always used her maiden name in her signatures, yet
  - (1<sup>1</sup>) This was only carrying out her marriage contract as to secrecy;
2. The executors of Stella did not believe that she was married to Swift, yet
  - (2<sup>1</sup>) They had no opportunity of knowing one way or the other;
3. Mrs. Dingley, Stella's companion, did not express the belief that Stella was married to Swift, yet

- (3<sup>1</sup>) Mrs. Dingley's answer is not clear;
- (3<sup>2</sup>) She was not apt to know Stella's greatest secret,  
for
  - (a) She was the companion, but not the confidante of Stella.
- 4. Mrs. Bent and Mrs. Ridgway, Swift's housekeepers, did not believe that Swift was married to Stella, yet
  - (4<sup>1</sup>) They were only servants, and Swift would not have been apt to communicate his secrets to them;
- 5. Swift said he had never seen the woman whom he would like to marry, yet
  - (5<sup>1</sup>) The statement was evidently made to one with whom Swift did not speak freely;
  - (5<sup>2</sup>) The manner of his speech was such that it would conceal his real feelings;
  - (5<sup>3</sup>) The name of the person to whom the reply was made is not given, and the whole evidence is indefinite as to the point at issue.
- 6. Dr. Lyon, a personal acquaintance of Swift, had access to all of Swift's papers, but did not believe that Swift was ever married, yet
  - (6<sup>1</sup>) Dr. Lyon knew Swift only in the years of the latter's decline and imbecility.
  - (6<sup>2</sup>) Swift would hardly have left in his papers evidence of what he wished concealed.
  - (6<sup>3</sup>) Dr. Lyon bases his conclusion on a premise which is false.

## CONCLUSION.

The testimony of many witnesses, both acquaintances of Swift and those who learned the fact from acquaintances, as to the marriage and as to the confirmation of Ashe and of Stella of the fact, and the agreement of these witnesses in the general



fact, in statements made at different times and under different conditions, lead me to say that Swift was married to Stella.

In the frequent cases in which a writer is not able completely to break down his opponent's objections, but must, after he has weakened them somewhat, depend on the convincingness of his direct proof, it must be clear why placing the general refutation in the middle of the brief is the best plan. It centers the attention of the reader, both in starting and at the end, two critical places, not on what the opponents can say against the writer, but on what he can prove true. It is this position which Lord Chatham gave his general refutation in the speech to which reference has already been made.

### *Brief J.*

#### LORD CHATHAM'S SPEECH ON THE MOTION TO REMOVE THE TROOPS FROM BOSTON.<sup>1</sup>

##### INTRODUCTION.

- I. The present action of the Ministry suggests unfairness.
- II. There has been unfairness by the Government, namely, misrepresentation, in that
  - A. The representations that led to the measures obnoxious to the Americans were false, as is shown by the fact that
    1. The ministry said that the measures would overawe the Americans, but these measures have united the Americans in resistance to England.
- III. Therefore, the troops should be immediately removed from Boston.

<sup>1</sup> See *Political Orations, Camelot Series*, pp. 40-49; *Specimens of Argumentation*, p. 7; Goodrich's *Select British Eloquence*.

- IV. In considering this proposed action, a hearer should remember that to be just to America does not mean to exempt her from all obedience to Great Britain.

BRIEF PROPER.

- I. This removal of the troops is necessary, for
- A. It will show the willingness of the English to treat amicably.
  - B. The resistance of the Americans was just, because
    - 1. The proceedings of Parliament had been tyrannical.
  - C. The means of enforcing the obnoxious measures have failed, for
    - 1. The army of General Gage is "penned up — pining in inglorious inactivity."
    - 2. Though it is said that the army in America is a safeguard, yet this is untrue, for
      - (a) It is powerless and contemptible, and
      - (b) It is irritating to the Americans.
    - 3. Though it is said that Gen. Gage is needlessly inactive, yet this is untrue, for
      - (a) Any activity on his part would mean "civil and unnatural war."
  - D. If Parliament tries still to enforce its measures, the results will be bad, for
    - 1. If Parliament is victorious, it will be over an embittered people, and
    - 2. The troops are not strong enough to resist three million united, courageous people, and
    - 3. Persecution of those men whose fathers fled to escape it should cease, since
      - (a) The objection that the "Americans must not be heard" is wrong, because
        - (1) It lumps the innocent with the guilty.

*E.* Because the statement that the Union in America cannot last is not true, for

1. The evidence of the "commercial bodies" is unreliable, for

(a) They do not represent the class they personate.

(b) They are government agents.

(c) Even if the speakers did represent the class they pretend to represent, their evidence would not be weighty, for

(1) Not the traders but the farmers are the sinew of a nation, and

(2) The farmers are solidly arrayed for liberty.

2. Because the evidence of a recognized authority (Dr. Franklin plainly hinted) shows that for liberty the Americans would suffer far more than they have endured, even war and rapine.

*F.* Though it is said that the Americans should be punished for illegal violence, yet this is untrue, for

1. A chance for reconciliation should not be missed.

2. 30,000 should not be punished for the fault of 40 or 50.

3. Punishment means arousing the unappeasable wrath of the whole American people.

4. Even if the English should be victorious, they could not control the great tract as they conquered it.

5. The resistance should have been foreseen, for

(a) The spirit that resists in America is that of all English stock, that which established the essential maxim of English liberty, "No taxation without the consent of the taxed."

6. The resistance will be too strong to be overcome, for

- (a) The idea of the Americans is that of the English Whigs, who, in consistency, must support the Americans, and
- (b) The Irish have always maintained the American idea.
- (c) The means to oppose this union will be inadequate, for
  - (1) A few regiments in America and about 18,000 men at home must oppose millions in England and all Ireland and America.

G. This removal of the troops must precede any other step, for

- 1. Fear and resentment must first of all be removed in the Americans, and
- 2. While the troops remain, resentment will remain, for
  - (a) Any measures secured by force will be doubly irritating with the army still in its place, and
  - (b) When, as is now the fact, force cannot be used, the mere presence of the army, although it is itself in danger, is an irritation.

H. The views of Congress are moderate and reasonable.

I. The superior should take the initiative in concessions.

J. While every motive of policy urges withdrawal of the troops, very great dangers threaten if they are kept in position, for

- 1. If the old course is pursued, foreign war hangs over the heads of the English, for
  - (a) France and Spain are watching for an advantageous chance to interfere, and
- 2. The old methods will bring ruin at home, for
  - (a) The king will lose all his power, and
  - (b) The kingdom will be utterly undone.

In short, then, except where the ground must be cleared before a case can be developed, it is probably better to put the refutation, if it is conclusive, at the end of the brief ; in the middle, when it is not.

### MARKING REFUTATION.

It is sometimes an aid to clearness to mark general refutation with the word *Refutation*. This is true when it comes at the beginning or the end of a brief, or when there is a group of general objections to be considered. When, however, the general refutation comes in as it does in the Chatham speech, — first an objection and its answer ; some direct proof ; then another general objection, — it is not necessary to mark the refutation divisions by such a head-line.

### HOW TO PHRASE THE IDEAS OF THE BRIEF PROPER.

*In the brief proper, each of the main headings should read as a reason for the conclusion, and each of the subordinate headings as a reason for the heading under which it stands.* This special kind of phrasing is one of the chief distinctions between an ordinary outline and a genuine brief. The greater clearness and force given by this phrasing of the ideas as reasons, study of the following briefs will show : —

#### *Brief K.*

DID THE COUNCIL OF CONSTANCE MAINTAIN THE PRINCIPLE THAT IT WAS NECESSARY FOR THE CHURCH TO KEEP FAITH WITH A HERETIC?

- I. Introduction : (a) Plea for impartiality ; (b) Argument, Outline of

- II. 1. Definitions of important words and phrases as (a) Council of Constance, (b) Maintain, (c) Church, (d) Heretic.
- 2. Restatement of propositions.
- III. Antecedent probability. Found in
  - 1. Religious intolerance just prior to and during the fifteenth century.
  - 2. The council, representative body; therefore, naturally expressing feeling of the times.
- IV. Specific motives :
  - 1. Desire to punish heresy, in person of one John Huss, despite his royal safe-conduct.
  - 2. Necessity (a) of persuading the emperor, Sigismund, to break his work and (b) of defending his honor.
- V. Proofs :
  - 1. Testimony (a) of Sigismund, (b) of Huss, (c) of members of the Council.
  - 2. Documentary.
  - 3. *In ipso facto*, i.e., the treatment, final punishment of Huss.

VI. Conclusion : Short summary of the argument given.

This throughout well shows the unsatisfactoriness, the vagueness, of a mere topical outline, in which headings are not phrased as reasons for the conclusion. The faults of an introduction like I. and II. have already been pointed out on pp. 92-99. If, then, we look only at the brief proper, which begins with III., we shall gain in clearness if we re-phrase III. so that it shall read :—

- III. There is antecedent probability that the council maintained this principle, for
  - 1. Religious intolerance just prior to and during the fifteenth century was very great and wide-spread.
  - 2. The Council, as a large representative body, must have expressed the feeling of the time.

IV. and V. we may re-phrase as follows :—

IV. The Council had specific reasons for holding this principle, for —

V. The Council did maintain this principle, for —

If, now, we re-phrase the sub-heads of IV. and V., as we re-phrased those of III., making them read as reasons for the truth of their headings, will not the old brief be greatly improved? Running the eye over the new headings, we see how the conclusion is to be reached : running over any set of sub-heads, we see how the particular heading they support is to be proved true. Comparison of the two following briefs will enforce the advantage to be gained from phrasing the parts of the brief proper as reasons :—

### *Brief L.*

WILL MATTHEW ARNOLD LIVE AS A POET?

#### · INTRODUCTION.

A. The great poets :—

Homer,

Milton,

Shakespeare.

Cf. Arnold : *Lectures on Translating Homer*. (Ed. 1865.) Homer's work— "the most important poetical monument existing"— p. 284. Cf. Essay on Milton (2d ser. *Essays*), etc. "He who wishes to keep his standard of excellence high, cannot have two better objects of regard and honour" than Milton and Shakespeare, p. 56.

Characteristics of great poets, —

I. "Thought and art in one." (Arnold : *Study of Poetry* in 2d ser. *Essays*, etc.)

- (a) Power of producing effect, and leaving a definite impression. (Cf. *Afternoon Lectures on Art and Literature*, v. 4. "Matthew Arnold's poetry.")

Style — Diction } Arnold — *Study of Poetry*,  
Movement } p. 22

- II. Truth and seriousness in all great poets.  
(Arnold: *Study of Poetry*.)

**B. Matthew Arnold's poetry —**

- I. 1. Has M. A.'s poetry *Thought*? Cf. "Thyrsis," "Resignation," "Self-Dependence," "Rugby Chapel," "The Forsaken Merman," "Balder Dead."
2. Has M. A.'s poetry *Art*? Cf. "Thyrsis," "Self-Dependence," "The Forsaken Merman," "Sohrab and Rustum" and some of the lyrics in "Empedocles on Etna," "A Southern Night."
3. Has M. A.'s poetry *Truth*? Cf. "Thyrsis," "Self-Dependence," "Dover Beach," "The Scholar Gypsy."
4. Has M. A.'s poetry *Seriousness*? Cf. "Thyrsis," "Self-Dependence," "Resignation," and others (elegiac poems).
- II. Mr. Arnold's best poetry — judged by the characteristics of the greatest poets, is (a) "Thyrsis," "Self-Dependence"; (b) "Sohrab and Rustum," "The Scholar Gypsy," "Balder Dead," "The Forsaken Merman."

**C. Conclusion.**

Matthew Arnold will live as a poet because he has written "Thyrsis," and "Self-Dependence" — two poems which come nearest to the work of the greatest poets.



Putting aside at present *A*, the very bad introduction, let us look at the arrangement in *B*, the brief proper. It is confusing. Evidently the writer wished to show that Matthew Arnold's poetry has thought, art, truth, and seriousness, but he simply asks four questions, and leaves the reader to surmise that in the poems, the titles of which are cited, an affirmative answer will be found. Even if all this be granted him, however, he still has not shown that if Arnold's poetry has art and thought, they are in one, and an important division is missing. All this needs revision. *B* II. follows vaguely from *B* I. and its contribution toward the conclusion is not very evident.

### Brief *M*.

#### WILL MATTHEW ARNOLD LIVE AS A POET?

#### A.

##### INTRODUCTION.

- I. The great poets are Homer, Milton, Shakespeare. This Arnold admitted, saying

1. Homer's work "is the most important poetical monument existing." (*Lectures on Translating Homer*, Arnold, p. 284.)

2 and 3. "He who wishes to keep his standard of excellence high cannot have two better objects of regard and honour than Milton and Shakespeare." *Essay on Milton*.<sup>1</sup>

- II. The great poets have certain characteristics :

1. Masterly thought, *i.e.*, the power of producing effect and leaving a definite impression. (Quote from *Aft. Lectures*, v. 4, as sub-head.)

<sup>1</sup> A student should consider whether the writer's plan to judge Arnold's poetry by the standards Arnold himself set is that most likely to lead to a conclusion as to Arnold's own work which every one will grant.

2. A masterly style; that is, model diction and perfect movement. (Quote as sub-head from *Study of Poetry*.)
  3. These two, masterly thought and masterly style, must be united. (Quote from *Study of Poetry* as sub-head.)
  4. Truth. (*Idem.*)
  5. Seriousness. (*Idem.*)
- III. The question then is: Does Matthew Arnold's poetry show these five characteristics of the poetry that lives?

## B.

## BRIEF PROPER.

- I. Matthew Arnold's poetry has
  - I. *Thought*, for this is shown in (a) "Thyrsis," (b) "Resignation," (c) "Self-Dependence," etc.
  - II. *Art*, for this is shown in (a) "Thyrsis," (b) "Self-Dependence," etc.
- III. The Thought and Art are combined, for this is shown in (a) "Thyrsis," (b) "Self-Dependence."
- IV. His poetry has *Truth*, for this is shown in (a) "Dover Beach," (b) "The Scholar Gypsy," etc.
- V. *Seriousness*, for this is shown in (a) "Resignation," (b) "Thyrsis," etc.

## CONCLUSION.

Since, from the preceding, we can see that several of Arnold's poems, "Sohrab and Rustum," "The Forsaken Mer-  
man," "The Scholar Gypsy," contain two of the four essential characteristics of great poets; that two, "Thyrsis" and "Self-Dependence," contain all four, we may say that even as the

great poets have lived through these qualities, through them also Matthew Arnold will live as a poet.<sup>1</sup>

Briefs H., I., and J. show the rapidity and the clearness with which long and involved arguments may be stated by use of this phrasing of ideas as reasons. Till a student accustoms himself to giving his ideas of the brief proper in this way, he cannot hope to draw satisfactory briefs.

#### THE VALUE OF FOR AND BECAUSE AS CONNECTIVES.

The usefulness of *for* and *because* as the conjunctions to mark this reasoning relationship between ideas must be evident from comparison of the original and the revised Arnold briefs. A student will now see why it is better not to use these conjunctions in the introduction, where only undisputed ideas should be given, and why in the brief proper he should not confound ideas which are but explanations of the headings under which they stand with ideas which are reasons for the truth of those statements. For instance:—

- V. She (France) wished to make them (the United States) a dependency of France, for  
    (a) She wanted to surround them on all sides by foreign powers of whose aggression they should always stand in fear.

<sup>1</sup> A student should note that this conclusion really does not answer the question finally. Evidently, since Arnold's poetry possesses to a slight extent the qualities of great poetry, it is likely to have some life; but how long it is likely to live, whether it will live, like the masters' work, as a whole, or only in the two or three poems that possess all of the characteristics of great poetry, remains vague. It will be good practice for the student to add to and revise the brief so that it shall answer the question.

Here, evidently, the clause introduced by *for* is not a reason to prove the truth of the statement that France wished to make the United States dependent, but an explanation of that statement. A proper sub-head for V. would read :

- (a) Her conduct in the negotiations for peace between Great Britain and the Colonies shows this, for :—

This should be followed by sub-heads showing how Vergennes intrigued, during these negotiations, to keep the power of France and even of Spain dominant in the New World. *“For” and “because” should, then, be kept as the connections between ideas of the brief proper which bear the relationship of proposition and proof.*

#### WRONG CONNECTIVES : HENCE, THEREFORE.

Students often connect the parts of the brief proper by *hence* and *therefore*, as in the following illustration :—

#### *Brief N.*

#### WILL THE NEW RULES IN FOOT-BALL IMPROVE THE GAME ?

- I. The game will be improved from the player's point of view, for
  - C. The players will not have so much heavy work to do, for
    - (a) It is an admitted fact that the game has more of the kicking element in it, hence
    - (b) Continuity of the rushing is broken, and
    - (c) Players have a breathing-spell.
- II. The game will be improved from a spectator's standpoint.

1. For the game is admittedly more open by the new rules, hence
  - (a) He can see the players to better advantage,
  - (b) He can follow the ball better.

When this phrasing seems necessary a student may be sure that the order of the parts of his brief is wrong. If he tries to put *for* and *because* in the place of his *hence* and *therefore*, the trouble will be clear. C. (a) in the above illustration is not true because of (b) and (c). Instead, they are true because it is to be accepted as a correct statement. In the same way, 1. under II. in this illustration is not true because (a) and (b) are, but they are true because the statement in 1. must be believed. That is, the writer has missed *the correct order for the divisions of the brief proper*, — *always proposition, proof*, and has used instead proof, proposition. A student will find that the use of *for* and *because* will always throw his ideas into the correct relationships, that *hence* and *therefore* will reverse the correct order. Revised, the divisions just cited would read:—

*Brief N. I.*

- I. The game will be improved from the player's point of view, for
  - C. The players will not have so much heavy work to do, for
    - (a) They will have breathing spells, because
      1. The continuity of rushing of the old game is broken, for
        - x. It is admitted that the new game has more kicking in it.
- II. And the game will be improved from a spectator's standpoint, for

- (a) He can watch the game to better advantage,  
 (x) as to players; (y) as to the ball, because  
 1. The new game is admittedly more open by  
 the new rules.

### PHRASING REFUTATION.

In phrasing objections, both general and special, a wording should be chosen which at once makes clear that the writer is at the moment refuting. The following from the brief of Chatham's speech, pp. 121-124, shows different useful phrases :—

- I. The troops should be removed, for  
 C. The means of enforcing the obnoxious measures have failed, for  
     2. (Special Refutation.) Though it is said that the army in America is a safeguard, yet this is untrue, for  
         (a) It is powerless and contemptible, and  
         (b) It is irritating to the Americans,  
 or 2. Though it is said that the army in America is a safeguard, yet  
     2.<sup>1</sup> It is powerless and contemptible, and  
     2.<sup>2</sup> It is irritating to the Americans.  
 D. If Parliament tries to enforce its measures, the result will be bad, for  
     3. Persecution of those men whose fathers fled to escape it should cease, for  
         (a) (Special Refutation.) The objection that the "Americans must not be heard" is wrong, because —  
 E. (General Refutation.) The statement that the Union in America cannot last is not true, for —

Often students spoil the phrasing of their briefs by referring vaguely to objections instead of stating them. This fault would phrase the objections just cited as follows :

- C. The means of enforcing the obnoxious measures have failed, for
  - 2. The army in America is not a safeguard, for —
- D. If Parliament tries to enforce its measures, the result will be bad, for
  - 3. Persecution of those men whose fathers, etc., should cease, for
    - (a) The Americans should be heard.
- E. The Union in America will last.

In these cases the writer has objections in mind, but does not state them clearly. If a reader knows that objections are raised on these matters, he is at once suspicious of the writer as a careless or somewhat dishonest workman. He seems either unwilling or too lazy to give his opponent credit for what is his.

#### VAGUENESS IN PHRASING.

All, indeed, that has been said as to vagueness of phrasing in the introduction, pp. 92 *et seq.*, of course applies equally to the wording of the brief proper. The objection may, of course, be raised to the sub-heads of Brief M, that they refer vaguely to important matters. It is, however, practically impossible to quote the passages to be produced as evidence, for they would swell the brief to a forensic. A more convincing and less vague aspect can be given the sub-heads, however, if some edition of Arnold is named in a note as the one

used by the writer, and references to pages and lines are added to the names of the poems. A way in which this may be done is shown in the introductory heads of Brief F. There, for instance, C. II. a — "Possible causes of the Glacial Epoch. Astronomical. Various theories which have been exploded" — would if expanded, fill too much space. Therefore, the writer puts (<sup>4</sup>) against the words of a and at the foot of the page the reference, "Le Conte, *Elements of Geology*, ed. 1894, p. 552." The brief on Matthew Arnold's poetry, if treated in this way, would read like this :—

1. Matthew Arnold's poetry<sup>1</sup> has

I. Thought, for this is shown in

- (a) "Thyrsis," p. 299, *passim*; especially, ll.<sup>2</sup> 20—80, 115, 146.
- (b) "Resignation," p. 49 : especially ll. 10—16.
- (c) "Self-Dependence," p. 276, *passim*, etc., etc.<sup>3</sup>

One method that often produces vagueness in a brief is for a writer to bring in the names of persons or events as significant, or understood by all, when they are not necessarily well known to a reader. The following shows this fault :—

<sup>1</sup> *The Poems of Matthew Arnold*, Macmillan & Co., 1884.

<sup>2</sup> The references to lines are merely for illustration.

<sup>3</sup> The extent to which references should be given in a brief must, of course, depend largely on the subject treated. When the question turns, even in part, on definitions, evidently the authorities used must be cited. Certainly Brief F, p. 103, gains from the care with which references are given. Citing references in briefs trains students in habits of accuracy, and makes the reader rely more on the writer. Since, however, using references well depends on a knowledge of evidence which a beginner in brief-drawing has not acquired, it is probably best to train beginners only to give absolutely indispensable references, like those for definitions and for passages referred to, and to leave so careful a use of references as that of the writer of Brief F until the class has studied evidence.



*Brief O.*

## WAS SWIFT MARRIED TO STELLA?

- A. The evidence which is used to prove that Swift was not married to Stella is not good, for though it is said that
3. Mrs. Dingley did not express the belief that Stella was married to Swift, yet
  - 3.<sup>1</sup> Mrs. Dingley's answer is not clear, etc.
  4. Mrs. Bent and Mrs. Ridgway did not believe that Swift was married to Stella, yet
  - 4.<sup>1</sup> They were only servants, and Swift would not have been likely to communicate his secrets to them.
  6. Dr. Lyon did not believe that Swift was ever married, yet, etc.

Here Mrs. Dingley, Mrs. Bent, Mrs. Ridgway, and Dr. Lyon appear as if they and their significance as witnesses were known to the reader. As was pointed out in treating the Introduction, it would be best to give in it such information as would make these people and their significance clear when a reader meets them in the brief proper. If for any reason the writer wishes to impress their significance on his reader he may do as the writer of the Swift-Stella Brief, whose introduction is inadequate, has done, and say:—

- A. The evidence which is used to prove that Swift was not married to Stella is not good, for though it is said that
3. Mrs. Dingley, Stella's companion, did not express the belief that Stella was married to Swift, yet—
  4. Mrs. Bent and Mrs. Ridgway, Swift's house-keepers, did not believe that Swift was married to Stella, yet—

6. Dr. Lyon, a personal acquaintance of Swift, had access to all of Swift's papers; yet he did not believe that Swift was ever married, yet —

It will be seen that the clauses added give the necessary information. It could best, however, be given first in the introduction.

### TRANSITIONS FROM DIVISION TO DIVISION OF THE BRIEF PROPER.

The main divisions of the brief proper should be phrased carefully so that the transition in thought from one to another should be clear at sight. Each division should develop clearly from that preceding it, and should lead as clearly to the division following it. This was not true of *B* II. of the brief on Matthew Arnold's poetry printed on p. 128. It did not follow clearly from *B* I. In the following bad brief the phrasing does connect *A* I. II. and III. But how *B* IV. follows from *B* III.; how it leads to *B* V. are matters by no means clear.

#### *Brief P.*

### DOES LAMB RIGHTLY ESTIMATE THE "ARTIFICIAL COMEDY OF THE LAST CENTURY"?

There are two main divisions: (A) Introductory, and (B) Argumentative.

- A.* I. Congreve's comedies are those we should consider, and they are licentious.
- II. Lamb maintains that they are, nevertheless, in-offensive, because unreal to us.
- III. Yet reality is the chief quality of good dramatic work.

- B.* I. A conventional world of bad manners may be in-offensive to us;  
II. But Congreve's is not such a world.  
III. And there must be some morals in the "conventional world of Comedy."  
IV. The characters are not unlike ourselves.  
\* V. Lamb probably did not mean all that he said.

In this brief, *A* III. is the beginning of the argument, and should be under *B*; the transition from it to *B* I. is not clear. *B* II. needs details for sub-heads; *B* III. is vague and needs development. *B* IV. comes in loosely, not developing from what precedes, not leading to what follows; it seems really to be a part of *B* II. This vagueness in connection between the ideas in a brief means that a writer must try to phrase his work better. To do this he must study the relations of the parts of his argument to see just how one grows out of the other. This fact shows that unless a writer has been merely careless in his phrasing, he must, if he is to re-phrase his work successfully, analyze his question more carefully. Bad correlation is generally a sign of inadequate or incorrect analysis. When a student finds that the correlating of his brief is criticised he should at once analyze his subject anew. When he has done this, he will try to make his reader, by certain symbols, understand the values and the relations he gives the parts of his work. In a word, there cannot be neat transition between the parts of a brief unless there is careful and correct correlation of the parts.

## THE IMPORTANCE OF CAREFUL CORRELATING IN THE BRIEF PROPER.

We have seen that in arranging the introductory material of a brief, careful correlation helped decidedly to clearness. It helps even more in the brief proper. Here are two briefs which show how confusing is bad correlation :—

### *Brief Q.*

#### WILL MATTHEW ARNOLD LIVE AS A POET?

Cf. Sohrab  
and Rostum,  
Balder Dead,  
The Scholar  
Gipsy,  
Rugby  
Chapel.

Matthew Arnold will live as a poet.

1. (a) Style the chief test of worth in poetry as in prose.

(b) Matthew Arnold's style permanently good because (1) his natural taste was sure and delicate in the whole realm of letters. (2) He was perhaps one of the most cultivated writers among his contemporaries.

v. Chief Justice Coleridge in *New Review*, September, 1889.

Cf. Empedocles on  
Ætna,  
In totumque  
paratus, The  
Youth of  
Nature

2. The only poet of significance who truly expressed the wavering and skeptical mood of his day. In later times men will turn to him to see the intellectual spirit of our day balancing between faith and uncertainty.

Stedman,  
Victorian  
Poets.

This brief shows the confusion that good material may be thrown into by a lack of carefully selected headings and sub-heads and of exact correlation. The brief should be given introductory headings as to the meaning of the

question. The compiler's assertion as to style needs supporting sub-heads to turn it from a mere assertion to a carefully considered opinion. The compiler calmly assumes for Arnold a mastery of style which needs some consideration, and turns to the question of the permanence of Arnold's reputation as a stylist. (1) and (2), which are parts of the sentence (*b*), should be given lines by themselves; the references scattered along the edges of the sheet should be brought in under the headings or sub-heads which they are to support. (1) seems more important than (2), and should follow it. 2. adds an idea, apart from style, and is a crowded sentence in which headings and sub-heads are thrown confusingly together. Restate it in this way, perhaps:—

2. Matthew Arnold's poetry will live, not only because its style is masterly, but also because its thought must strongly interest future generations:

- A.* Since it best expresses the wavering between faith and uncertainty of the present day;
- B.* Since it best, in poetry, phrases the skepticism of to-day.

Certainly the compiler should define what he means by style in poetry, and should join 1. and 2. in thought as closely as he can. As they stand, the transition from one to the other is very abrupt. If all this material were rearranged and carefully correlated, order would come out of the present chaos.

If a reader will look at the brief on Matthew Arnold's poetry given on p. 127, he will see that an entirely new correlating of its parts was necessary to bring it into the form it bears on p. 129. *A* I. and II. of the old brief are, as introductory matter, marked off on p. 129 from the

brief proper. Then the numbering of the parts of the introduction is changed because the old correlation of I. and II. had no meaning. A reader of the old brief was left to discover that each of the first set of quotations in the introduction showed why one of the poets named in the opening lines of the brief was chosen. The new brief, by careful correlation and proper phrasing, makes this self-evident. In I. and II. (of the properly introductory matter) a reader is again left to inference, this time that the references, if examined, will provide support for the statements that in great poets thought and art are in one; that their works, producing an effect and leaving a definite impression, are models in style; that truth and seriousness are in all of them. All this, then, needed careful remassing and correlating. The arrangement in *B*, also, is confusing. Evidently the writer wished to show that Matthew Arnold's poetry has thought, art, truth, and seriousness, but he simply asks four questions, and leaves the reader to surmise that in the poems the titles of which are cited, an affirmative answer will be found. Even if all this be granted him, however, he still has not shown that if Arnold's poetry has art and thought, they are in one. Therefore, an important division is missing. All this needs revision. *B* II. follows vaguely from *B* I. and its contribution toward the conclusion is not very evident. That is, again we need to remass the material and to correlate carefully.

#### CROWDED HEADINGS.

As may be seen from one of the corrections suggested for the very confused brief on Matthew Arnold given on p. 140, one reason, sometimes, why briefs do not develop

clearly, even when correlated, is that writers overcrowd the headings. That is, they put into the headings so many different ideas that the relations of these ideas, main and subordinate, are lost to sight. In the brief just referred to, the heading 2. reads:—

2. The only poet of significance who truly expressed the wavering and skeptical mood of his day. In later times men will turn to him to see the intellectual spirit of our day balancing between faith and uncertainty.

Here main ideas and subordinate are thrown together confusingly. We can make this clear by re-stating it with careful correlation.

- I. Matthew Arnold's poetry will live, not only because (what has been shown) its style is masterly, but also because its thought must strongly interest future generations,
  - A. Since it best expresses the wavering between faith and uncertainty of the present day;
  - B. Since it best, in poetry, phrases the skepticism of to-day.

This heading is also crowded:—

- (c) "The Utopia of gallantry,"—(cf. Vainlove's speech in *The Old Bachelor*, I, 1, p. 12, Vizetelly's edition)—as Lamb fitly characterizes the sphere of the *Artificial Comedy*, may be paralleled very exactly in the court of Charles II., as described in Evelyn's *Diary*, in Pepys's *Diary*, in Bishop Burnet's *History of His Own Times*, in Hamilton's *Memoirs of Count Grammont*,—an account of nothing of state, the memoirs of amours alone.

If stated in this way, is not the material easier to grasp?

- (c) "The Utopia of gallantry" — as Lamb characterizes the sphere of the *Artificial Comedy* — is paralleled in the court of Charles II., for
  - (1.) The histories of the time verify it.
    - 1. See Burnet's *History of His Own Times*.  
(Give exact references.)
  - (2.) The diaries verify it.
    - 1. See Pepys and Evelyn. (References exactly.)
  - (3.) The memoirs of the Count de Grammont corroborate it. (References exactly.)

The heading II. of Brief *A* — "Illegal measures sometimes justifiable. Revolution. Civil War, resistance to Fugitive Slave Act" — develops, when properly handled, into this : —

- I. Measures not strictly legal may be warrantable, defensible, for
  - 1. Social reasons, for
    - (a) When social corruption in San Francisco in its early days was not successfully controlled by the regularly appointed officers, the Vigilante Committee removed the troubles by methods not strictly legal.
  - 2. Political reasons, for
    - (a) When Great Britain oppressed the American Colonies, they gained by revolt and force what they could not gain by appeal and arbitration.
  - 3. Moral reasons, for
    - (a) Posterity has justified the refusal of men, at a time of religious persecution, to conform to laws contrary to their beliefs.
    - (b) Later generations approve the conduct of those



who in the Underground Railway acted contrary to the Fugitive Slave Law.

Crowded headings should, then, be broken up and the parts carefully correlated. *Each heading, each sub-head, of the brief proper, should phrase but one idea.*

### THREE COMMON ERRORS IN CORRELATION.

1. *Badly correlated refutation.* — Other faults in correlation suggest themselves here. Refutation is often confusingly correlated; headings are given sub-heads which do not really support them; divisions are marked twice. For instance, both of the following correlations of refutation are incorrect:—

1. Though it is said that the army in America is a safeguard, yet

(a) It is powerless and contemptible, and

(b) It is irritating to the Americans.

and

1. Though it is said that the army in America is a safeguard, yet this is untrue, for

1.<sup>1</sup> It is powerless and contemptible.

When an objection is answered by a clause introduced by *yet* alone, this clause is placed, so to speak, over against the objection and should be given equal rank. That is, the first illustration should read:—

1. Though it is said that the army in America is a safeguard, yet

1.<sup>1</sup> It is powerless and held in contempt, and,

1.<sup>2</sup> It is irritating to the Americans.

When an objection is, however, declared untrue because something else is true, this phrasing calls for subordination to the objection of the clauses introduced by

*for* or *because*. The second illustration should read, then :—

1. Though it is said that the army in America is a safeguard, this is untrue, for
  - (a) It is powerless and contemptible, and
  - (b) It is an irritation to the Americans.

That is, the writer of the first two illustrations just reversed the correct correlation. The first correlation illustrates a very common error.

2. *Sub-heads which do not support their heading*.—The following brief shows sub-heads which do not really support the heading under which they stand, though they are connected with it in thought :—

- A. Mr. Pullman was right in refusing to submit to arbitration the demands of his employees, because
  1. A capitalist has a right to manage his business as he will, so long as he does not injure any one or violate any law.
    - (a) Mr. Pullman's business is a private matter; no disinterested person has any right to dictate to him.
    - (b) No man is obliged to work for Mr. Pullman; if he is dissatisfied he may seek for work elsewhere.
    - (c) The private business of any one is not a matter for arbitration.

Here (a), (b), (c) are not at all on the same footing, and (a) and (b) certainly do not support 1. directly. The writer has two ideas in mind: that the capitalist has certain rights: and that Mr. Pullman, as a capitalist, should be allowed to take advantage of these rights. He starts to prove in 1. the rights of the capitalist, and

runs off, in (a) and (b), on his second idea, that Mr. Pullman's business falls under the conditions of which he is thinking. In (c) he recurs to his first line of thought and makes a more sweeping statement in regard to it. When the writer tries to correlate this correctly, and therefore analyzes his material more thoroughly, he will find such serious objections arising to some of his statements in (a), (b), and (c), under 1., that he will probably give over any attempt to develop his argument on just these lines.

3. *Double marking.*—All that was said of over-correlation, of double marking in introductions, p. 102, of course applies equally well to the brief proper. It is a very common error that produces at times considerable confusion.

#### THE SECOND GREAT REQUISITE OF THE BRIEF PROPER.

*If phrasing the headings and the sub-headings of briefs as reasons be the first great requisite of the good brief proper, correct correlation of the parts is the second. It is not easy to master, but it is absolutely indispensable in good briefs.*

#### THE USEFULNESS OF CLIMAX IN ARRANGING BRIEFS.

In the brief drawn for simple investigation of a question, the best order is to take up the necessary main ideas so that a reader shall pass from the weakest to the strongest, and to treat the subordinate headings under main headings in the same way. The advantage of this order is, of course, that a writer's convincingness increases as he moves on. For instance, in the following brief, IV., as showing merely that two different views on

the eighteenth century have been held, suggests an antecedent probability that Carlyle's estimate may not be correct. Therefore, it is not so strong as proof that his opinion is incorrect, and it should follow I., not III.

### *Brief R.*

#### CARLYLE'S ESTIMATE OF THE EIGHTEENTH CENTURY IS INCORRECT.

- I. Introduction. Carlyle's estimate.
- II. The eighteenth century was not a "decrepit, death-sick era," because beneath the apparent lassitude of the age, forces were at work, mental, moral, and social, which contained the seeds of the best fruit that the nineteenth century has produced.
- III. The eighteenth century was not an era of hypocrisy and cant:
  - (a) Because solid, searching men, like Swift and Johnson, were the acknowledged leaders of the literary world.
  - (b) Because it was the age of great deistic controversy.
  - (c) Because it was the age of earnest search for truth.
  - (d) Because it was an age of reform, of the broadening of human sympathies, despite its "windy sentimentalism."
- IV. Contrasts between the estimates of Carlyle and Lecky.
- V. Summary and conclusion.

The proper rearrangement of this brief for climax has been given on p. 94.

This climactic arrangement of material can in practically all cases be carried out for the subdivisions, but it is not advisable in some cases for the main headings.

If a man is writing in favor of some entirely new or unpopular idea, he may not win a hearing unless he can at the beginning of his paper startle a reader by the cogency of his ideas. In such a case the writer will put one of his strongest, if not his strongest idea, first. Indeed, he will probably begin by using his best logic to destroy some one of the fundamental ideas on which the old theory rests. That is, he will begin by refuting. Whenever a writer refutes, his aim is to weaken sympathy with his opponent promptly, to destroy the force of his adversary's case as soon as possible. If he begins by refuting his opponent's weakest argument and works slowly to the strongest, certainly he will not produce half the effect that he will if he at the outset attacks the strongest argument of his opponent which he feels sure that he can overcome. In the first case, he probably considers needlessly arguments so dependent on the stronger objections that they must fall if the latter fall : therefore he wastes time. In the second case, he can show that some of the minor arguments have gone down with the strong argument refuted. He can, too, with greater probability that his views will be, after his success, accepted, assert that the arguments he cannot wholly answer are at least seriously weakened. Moreover, every argument he does answer after the strong argument has been overcome counts. In the first case, when he seemed to be keeping away from the strong arguments, they went for less. Climax, then, is as far as is possible to be sought for in arranging the headings and sub-headings of a brief, but in general refutation and under special circumstances it is not to be used unless careful consideration shows that it is wise.

## SUMMARY.

In the brief proper, then, a student should state clearly and very succinctly the ideas by which he hopes to prove the correctness of his opinion. Separating direct proof from general refutation, carefully distinguishing general and special refutation, he should phrase his ideas as reasons and connect them by *for* and *because*. Vagueness in phrasing and in transitions from idea to idea he must carefully avoid. He must so correlate his ideas that their correct relationships one to another will be clear at a glance. He should remember that one letter or number is enough for one idea. He should break up and correlate crowded headings. As far as possible he should aim at climax in arranging his material.

## CONCLUSIONS.

The division of a brief called the Conclusion sums up in as few words as possible the argument of the brief proper, showing clearly how it leads to a decision for the affirmative or the negative on the topic under discussion.

## WHEN A CONCLUSION MAY BE OMITTED.

The final decision—it is often itself called the conclusion, though it is but a part of it technically—should always, unless it is given at the beginning of the brief proper as a proposition, be stated at the end of the discussion. For instance, in the following brief the conclusion is evidently needed, and is properly given :—

*Brief S.*

IS THE EXPULSION OF THE JEWS FROM RUSSIA JUSTIFIABLE?

BRIEF PROPER.

REFUTATION.

*A.* It is claimed that the expulsion of the Jews is defensible on

- I. Economic and social grounds, for  
(Sub-heads).
- II. National grounds, because  
(Sub-heads).

*B.* The expulsion of the Jews is not defensible on

- I. Economic and social grounds, for  
(Sub-heads).
- II. National grounds, for  
(Sub-heads).

GENERAL PROOF.

- I. The results of the expulsion of the Jews are injurious to the country, for
  - 1. Commerce is seriously crippled by it, for  
(Sub-heads).
  - 2. The strong and energetic part of the Jewish population is emigrating, etc., etc.

RECAPITULATION AND CONCLUSION.

Since, then, the expulsion of the Jews from Russia is not defensible on economic, social, or national grounds; and since in its results it is injurious to the country of Russia; and since, furthermore, it offends the moral sense of the civilized world, I conclude that the expulsion of the Jews from Russia is unjustifiable.

In the next illustration, the brief proper of Lord Chatham's speech on removing the troops from Boston,

it is evident that I. is the final decision and that there is no need to re-state it at the end of the brief.

### *Brief T.*

#### BRIEF PROPER.

- I. The removal of the troops is necessary, for
  - A. It will show the willingness of the English to treat amicably.
  - B. The resistance of the Americans was just, because  
(Sub-heads).
  - C. The means of enforcing the obnoxious measures have failed, for  
(Sub-heads).
  - D. If Parliament tries still to enforce its measures, the result will be bad, for  
(Sub-heads).
  - E. The statement that the Union in America cannot last is not true, for  
(Sub-heads).
  - F. Though it is said that the Americans should be punished for illegal violence, this is untrue, for  
(Sub-heads).
  - G. This removal of the troops must precede any other step, for  
(Sub-heads) etc., etc.

A student should never, except in the case just explained, fail to state clearly the conclusion in a brief. He should neither omit it nor merely refer to it. The latter is what the writer of the brief on the *Council of Constance* topic, given on p. 126, did. He writes:—

VI. Conclusion: Short summary of the argument given. The uselessness of this is self-evident.



## QUALIFYING CONCLUSIONS.

A writer, in stating his conclusion, should never qualify, reaching a weaker decision than that which he evidently started out to prove true. This fault is shown in two of the briefs already cited. That on the topic about the *Artificial Comedy*, p. 138, has as its conclusion :—

VI. Lamb did not mean what he said.

The student was asked to show that Lamb's estimate was correct or incorrect, and he arranged headings as if he intended to prove Lamb wrong. Then, suddenly he shifted his ground to this conclusion. In the brief on Matthew Arnold's poetry, on p. 127, the writer was asked "Will Matthew Arnold live as a poet?" and he developed a brief that was, apparently, to show that Arnold will thus live. When he reached his conclusion, however, he said :—

## CONCLUSION.

Matthew Arnold will live as a poet, because he has written "Thyrsis" and "Self-Dependence," two poems which come nearest to the work of the great poets.

The last clause qualifies the conclusion and raises the question, very difficult to decide : Do the two poems come near enough to the great work to last? When a student is tempted to qualify a conclusion in this way, he may be sure of one of two things : either he has not supported his case as strongly as he could, and revision will make qualification unnecessary ; or he has tried to prove more than he can, *i.e.*, his analysis of the work to be done is faulty and he must start anew, carefully pointing out to a reader in his introduction why he can treat only the

modified form of the original question. A writer should never, of course, under any circumstances, if he feels that the work done calls for qualification, state a conclusion unqualifiedly. He should face the unsatisfactoriness of his work and search—along the two lines suggested above—for the place where his fault lies.

### SUMMARY.

*The conclusion, then, of a brief should always be clearly stated, unless the most important part of it, the decision to be reached, is stated at the beginning of the brief proper, as a proposition. Never state qualified conclusions.*

### GOOD BRIEFS.

All these rules for the Introduction, the Brief Proper, and the Conclusion, must be carefully applied and mastered, if a student wishes to draw good briefs and to write clear and convincing arguments. Once mastered, they simplify greatly two divisions in argumentation, analysis and structure, and they are a decided aid to an effective handling of evidence. What a successful application of these rules will produce is shown by Brief *H*, p. 111, Brief *J*, p. 121, and the two which follow:—

#### *Brief U.*

DOES THE GORGE OF THE NIAGARA RIVER AFFORD A SUFFICIENT INDEX OF THE DURATION OF POST-GLACIAL TIME?

#### INTRODUCTION.

- I. It is admitted by all geologists that
  - (a) The gorge of the Niagara River, as we know it, has been cut since the close of the ice age.

- (b) It is increasing in length at the cataract end.
- (c) The cataract is the cause of the increase.
- II. Certain geologists,—among them Wright, Lyell, and Spencer,—in attempting to estimate the duration of post-glacial time, think it necessary
  - (a) Merely to determine the rate at which the length of the gorge is now increasing, and
  - (b) Then to compute from the known length of the gorge the time it has taken to form the whole.
- III. Other geologists—among them Gilbert and Shaler—think that the methods and results of Wright and the others are inaccurate, in that
  - (a) The rate of erosion has varied for several causes.
  - (b) There was a period of unknown duration between the close of the ice age and the birth of the river.
- IV. The question is, then: Are the ideas, III. (a) and (b), upon which Gilbert and Shaler rest their theory, incorrect?

## BRIEF FOR THE NEGATIVE.

PROPOSITION: The gorge of the Niagara River does not afford a sufficient index of the duration of post-glacial time.

- A. It does not afford a sufficient index of the duration of its own lifetime.
  - I. The rate of erosion of the gorge has not been constant, for
    - 1. It depends on three controlling factors:
      - (a) The hardness and relative thickness of the materials eroded.
      - (b) The volume of the river.
      - (c) The height of the cataract.
    - 2. And these factors have not been constant, for
      - (a) The hardness and relative thickness of the materials eroded has varied.

1. A part of the present gorge lying above the whirlpool had already been cut by a pre-glacial stream and subsequently filled with loose, incoherent, glacial drift.
    - a. The drift-filled gaps in the cliffs at the whirlpool and at St. David's are evidences of the existence of such pre-glacial stream and gorge.
  2. We infer by analogy that the limestone rock is more cracked, and therefore softer and more easily eroded in some parts of the gorge than in others.
  3. The thickness of the limestone is shown by measurements to vary in different parts of the gorge.
- (b) The volume of the river has not been constant, since
1. For a long time the waters of the upper lakes followed a channel which caused them not to empty into Lake Erie, and hence into the Niagara. Evidences of this are :
    - a. Ancient watercourses.
    - β. Ancient shore lines associated with them.
    - γ. Ancient beaches, spits, bars and other relics of lake wave-action.
  2. For a time the Niagara received the waters from melting glaciers, and and then its volume may have been greater than now.

(c) The height of the cataract has not been constant, for

1. The level of Lake Ontario has not been constant, for

a. Ancient shore lines show that it was once nearly as high as the top of the present gorge; then was lowered some 300 feet; and then it gradually rose to its present level.

II. We have not sufficient data for measuring the effect of the inconstancy of the hardness and relative thickness of the materials eroded, for

(a) We cannot estimate

1. How far above the Whirlpool the ancient gorge was cut.
2. How deep into the plateau it was cut.
3. How much the hardness of the limestone has varied.
4. The effect of a change in its thickness on the rapidity of erosion.

III. We have not sufficient data for measuring the effect of the inconstancy of the volume of the river, for

(a) We cannot estimate,

1. The difference in volume of the river due to the waters received from melting glaciers.
2. The difference in volume of the river due to the addition or subtraction of the drainage of the upper lakes.
  - a. It has been conclusively proved that the hydrographic basins of those lakes were not the same then as at present.

## 3. The length of the cataract.

- a.* We have no means of telling how long Lake Ontario remained at the different levels indicated by the series of shore lines.

*B.* Even if we grant that the Niagara affords a sufficient index of the length of its own life, it does not afford a sufficient index of the duration of the post-glacial epoch, for

I. The two epochs are not coincident, for

- 1. The river did not begin to cut its gorge immediately upon the recession of the ice from the "great divide."

(*a*) For a long time after the recession of the ice from the divide, the site of the Niagara River was buried under the ice or under a lake, for

- 1. After the ice had melted North of the divide, but before it had melted enough to open the Rome pass, the glacial waters were confined between the ice front and the divide in the form of lakes, and
- 2. Ancient watercourses and shore lines show that one of these lakes occupied the Western part of the basin of Lake Erie while the ice still covered the site of the Niagara River, and that this lake assumed at least four different levels before it overflowed at a level sufficiently low to cause the separation of Lakes Erie and Ontario.

II. Our data for determining the time which elapsed between the recession of the ice sheet and the birth of the river, are insufficient.

III. In the absence of sufficient data all mathematical computations are valueless.

This Brief *T* is admirable, like Brief *H*, for the careful correlation of the parts. The steady development of the ideas to a climax should be noted. It is strong, too, in the direct and simple way in which it treats a somewhat technical subject.

### *Brief V.*

## SHOULD BOSTON ADOPT A SYSTEM OF UNDERGROUND OR OF ELEVATED TRANSIT?

### INTRODUCTION.

- I. The following statements show that Boston's transit facilities are inadequate :
  - A.* An insufficient number of cars are run.
  - B.* As a result passengers often have to stand in cars.
  - C.* Progress in the so-called "congested district" is very slow, as is shown by the facts that
    1. There are only surface cars to take.
    2. The crowded streets delay surface cars.
- II. Two facts prove that Boston greatly needs more rapid transit :
  - A.* The lack of rapid transit checks its growth, in that <sup>1</sup>
    1. A city grows fastest in its suburbs.
    2. Suburbs cannot grow without rapid transit to the city.
  - B.* Rapid transit diminishes the number of tenement houses,<sup>2</sup> in that
    1. It makes it possible for workingmen to live in the suburbs.

<sup>1</sup> Report of Rapid Transit Commission, p. 229.

<sup>2</sup> *Ibid.*, p. 16.

III. The following conditions bear witness that surface cars can in no way give relief.

A. The present lines are run as well as possible under present conditions,<sup>1</sup> in that

1. The streets are too crowded to permit a greater number of cars or higher speed.

B. More rapid progress cannot be attained by widening streets, in that

1. The expense would be prohibitory.

C. The traffic on Washington and Tremont streets, the most crowded, may not be diverted to neighboring parallel ones, as the following facts show :

1. They are shut in between the thickly crowded district and Beacon Hill.<sup>2</sup>

2. The people will not permit use of the Common.

IV. Since rapid transit cannot be procured on the surface, the question is whether to go above or below the surface, whether to build an elevated railroad or some form of underground road, such as

1. A subway, a tunnel near enough to the surface to be dug by the "cut and cover" method. This consists in digging a trench and then roofing it.

2. A deep tunnel,<sup>3</sup> about fifty feet below the surface, and built by the Greathead system. By this a "shield," a cylinder with a cutting edge is forced along by hydraulic presses, and the earth inside the "shield" being excavated, the tunnel thus formed is preserved by laying a continuous tube of iron as large as the shield.

<sup>1</sup> Mayor Matthews, *Boston Herald*, Feb. 28, 1894.

<sup>2</sup> Report of Rapid Transit Commission, p. 262.

<sup>3</sup> *Ibid.*, p. 156.



## BRIEF PROPER.

The Greathead system of tunnels should be adopted, for

- I. Tunnels would not injure the city, as would an elevated road or subway, for
  - A. They would not hurt the streets, for
    - 1. They would not obstruct them by posts.
    - 2. They would not darken them.
    - 3. They would not make them unsightly.
  - B. They would not make the city noisy.
  - C. They would not injure business during construction, for
    - 1. They would not drive away trade, for
      - a. They would not obstruct streets.<sup>1</sup>
- II. Only deep tunnels would equally accommodate all districts, for
  - A. East Boston and other suburbs are separated from the city by water.
  - B. Transit by elevated roads would be hindered by ferries or drawbridges.
  - C. Water is no great hindrance to a Greathead tunnel, for
    - 1. In London, where water was encountered,<sup>2</sup> "the work was done without any great difficulty."
- III. A system of tunnels would procure the most rapid transit, for
  - A. The speed would be as great as on an elevated, for
    - 1. An electric motor would be used on an elevated.<sup>3</sup>
    - 2. An electric motor that could be used on an elevated could be used in a tunnel.

<sup>1</sup> Resolutions Anti-Subway League, *Boston Herald*, April 11.

<sup>2</sup> Report of Rapid Transit Commission, p. 156.

<sup>3</sup> *Ibid.*, p. 78.

*B.* A tunnel would take a passenger most directly to his destination, for

1. An elevated road would have to take a round-about course,<sup>1</sup> for

(*a*) The expense of cutting a new street through the congested district would be too great.

(*b*) Land damages on present streets would be too great, for

*a.* The streets are so narrow that an elevated structure would shut out a great deal of light and otherwise injure property.

2. Only a tunnel could go straight through the "congested district."

(*a*) It would not have to pay damages.

*a.* It would go deep enough not to disturb foundations.

(*b*) It could safely be built under buildings, for

*a.* Tunnels have been so built in London.<sup>2</sup>

#### REFUTATION.

*I.* A tunnel here would not have the defects of the London one,<sup>3</sup> for

*A.* That was built too small, since

1. It was an experiment,

2. Expense had to be saved.

*B.* That was built crooked, under the streets, for

1. It was not then thought safe to build under houses.

<sup>1</sup> Report of Rapid Transit Commission, p. 69.

<sup>2</sup> *Ibid.*, p. 155.

<sup>3</sup> *Ibid.*, p. 188.

- C. A tunnel here would not be an experiment and liable to these errors.
- II. People would not be deprived of pleasant rides, for
  - A. They never ride in the crowded districts simply for pleasure.
  - B. Underground roads would be built only in crowded districts,<sup>1</sup> since
    - 1. They would not pay elsewhere.
- III. Tunnels would not be disagreeably cold, since
  - A. The temperature would not be greatly different from that at the surface, for
    - 1. The air would be frequently changed, for
      - (a) The car would force out and draw in air — not the case in a subway.<sup>2</sup>
    - 2. On the London electric road the temperature is between 50° and 55°.<sup>3</sup>
  - B. The tunnels would be cooler than the outside air in summer and warmer in winter.
- IV. Tunnels would not be badly ventilated, for
  - A. If electricity is used as a motive power there is little to make the air impure.<sup>4</sup>
  - B. The car would force out impure air.
- V. It would not be financially impracticable to build a system of tunnels, for
  - A. The expense would not be vastly greater than that of an elevated road, for
    - 1. While the expenses of construction would be greater, the land damages would be less.
      - (a) The construction and equipment of 12 miles of tunnel would cost \$18,000,000.<sup>5</sup>

<sup>1</sup> Report of Rapid Transit Commission, p. 17.

<sup>2</sup> *Ibid.*, p. 156.

<sup>3</sup> *Ibid.*

<sup>4</sup> W. B. Parsons. Report to N. Y. Rapid Transit Commission, *Engineering News*, Oct. 18, 1894.

<sup>5</sup> Osborne Howes, *Boston Herald*, April 10, 1894.

- (b) The damages would be nothing.
  - (c) The construction and equipment of 13.5 miles of elevated would cost \$10,000,000.<sup>1</sup>
  - (d) Cost of street widening and land and damages would be \$6,000,000.
2. The expense will not be likely to exceed the calculated amount,<sup>2</sup> for
    - (a) The uncertain expenses of cost of land and damages do not have to be considered.
  3. The cost of repairs per mile per year for an elevated road is \$2,000, while a tunnel once built is "complete for all time."<sup>3</sup>
- B. A tunnel system here in Boston could pay 6 % dividends from the start,<sup>4</sup> for
1. The yearly revenue would be \$1,825,000, for
    - (a) The number of passengers, 100,000, assumed by Mayor Matthews for the elevated road, may be assumed for the tunnels.
  2. The expenses would be \$868,288, for
    - (a) This is the expense assumed by Mayor Matthews for the elevated road,
    - (b) We may assume the same expense.
  3. The profit, \$1,000,000, would pay 5 % interest on \$1,000,000, half the total amount of bonds, and 6 % dividends on \$9,000,000 of stock.

## CONCLUSION.

Since the Greathead system of tunnels would not injure the city, would best accommodate all districts, and would give most

<sup>1</sup> Rapid Transit Report, p. 86.

<sup>2</sup> See note 5, p. 163.

<sup>3</sup> See Rapid Transit Report, p. 112.

<sup>4</sup> Osborne Howes, *Boston Herald*, April 10, 1894.

rapid transit ; and since the objections that the tunnel in Boston must have the faults of the London "Greathead," would deprive the people of pleasant rides, would be disagreeably cold in winter, would be badly ventilated, and financially impracticable, do not hold good, a Greathead deep tunnel is preferable for Boston to an elevated road or a subway.

## CHAPTER IV.

### THE PREPARATORY READING FOR ARGUMENTATION.

WE have seen that a student, in analyzing a question that is to be debated, must read to learn what is the origin of the question ; what the terms mean ; what facts are admitted by both sides ; and what matters apparently connected with his subject are really extraneous. Moreover, when by this reading and analysis he has found the special issue in his case, he will probably not only consider for himself the relations that the special issue bears to the other ideas connected with his subject, but will seek information from others. That is, he will continue his reading. After this work has been done, he is ready, as we have seen, to draw up his brief. When, however, he seeks for the detailed proof that the ideas of his brief proper are correct, he must read anew. It is evident, then, that the method of reading in preparing for argumentative work may be important.

### A COMMON METHOD OF READING.

Among college students a method frequently used in preparing for an argument, is to take some subject on which the writer has thought only a little or none at all, and to read carefully all that can be found which bears favorably on the view the student, without consideration, forms. When all the material easily accessible has been examined, he puts his opinions on paper rapidly. Perhaps

he glances, in passing, at a few ideas, chanced upon in his reading, which may be advanced against his view. Such preparation as this breaks two fundamental laws of good argumentation when the object sought is truth.

## TWO RULES TO PREVENT HASTY PREPARATION OF AN ARGUMENT.

The first rule is: *When a student has a question to debate and has decided what the special issue is, he should examine the content of his own mind on the subject to see just what it is: how much of it is clearly defined opinion; how much is mere vague speculation; how much of it rests on experience or evidence of any sort upon which he can place his hand in books or through people; and how much is only vague impression, prejudice, or the mere wish that the affirmative or the negative of the proposition may be true.* The second rule is: *In the study of a debatable matter, remember that to understand exactly what is the work to be done a student must know as well what can be said against him as for him.*

### THE FIRST RULE.

To illustrate the value of the first law. If a student will consider carefully the ideas that are in his mind in regard to Spiritualism, Christian Science, the advisability of the University Extension movement, or on what his allegiance to the Republican or the Democratic party rests, he will probably soon recognize how much vagueness, mere speculation, hearsay, and prejudice there is among these ideas. If he is to debate on any one of these subjects, he should, in beginning, exclude from

his work as rigidly as he can everything in the content of his mind bearing on the case except clear-cut opinions that rest on evidence of his own mind or senses, or the minds and senses of other people. Let him exclude from his argument vague opinions and impressions, until by study of his subject, he can clear the opinions of vagueness and change the impressions to well-grounded opinions. Let him shut out his old prejudices as far as he possibly can in preparing for and in treating the question. In other words, let him clear his mind for action, and leave only what is not vague and rests on proof. This process cuts down decidedly the material with which he will start, but it separates the wheat from the chaff. The remainder is much more valuable than the original greater mass of material. It is because clever men sometimes do not subject themselves to any such process of preliminary self-scrutiny, but rush into the forensic contest or their preparatory reading, that their wide reading and its brilliant use often go for naught before the work of a slower mind that has been rigidly self-scrutinizing at the outset and then read carefully.<sup>1</sup>

### THE SECOND RULE.

In any argument that amounts to anything, there is no clear road to victory. Sir George Cornwall Lewis, speaking of his dialogue on *The Best Form of Government* said: "It is a controversy consisting of a debtor and creditor account: the difficulty lies in striking the balance fairly. The weights in one scale may be less heavy than

<sup>1</sup> This self-scrutiny before beginning debate is fundamental in most of the Socratic dialogues of Plato. Socrates forced his questioner to subject himself to it. See the *Euthyphro* and the *Gorgias*.



the weights in the other scale, but they are, nevertheless, weights. Such is the nature of nearly all moral and political problems. When the discussion is conducted on both sides by competent disputants, there are almost always valid arguments in favor of each of the two opposite opinions. The difficulty is to determine which of two sets of valid arguments preponderates.”<sup>1</sup> Each side in argumentation, then, will have its strong and its weak places; and the brilliant forensic worker will, like the great general, know not only where all the weak places as well as the strong in his own lines are, but, as far as possible, the weak and the strong in his enemy's. He must know where to expect attack, if he is not to be disastrously surprised: he must know where he may best concentrate his assault if he is to overcome his opponent.

A great part of the rapid success of the German army in the Franco-Prussian War has been attributed to the care used to keep the officers and their aides informed as to the nature of the country in which they were manœuvring their troops. It is said that, whenever a body of German soldiery moved to a new position which it was to hold for a time, the officer in command, on taking up the position, at once summoned his under-officers, and with a map of the country spread out on the floor before him gave them a “quiz” on the lay of the land. They were obliged to know the names of the surrounding villages and hamlets, what roads ran out of the town occupied, the cross-roads, the points of vantage and of danger; in a word the military topography of the region. When the lesson was completed, they were sent forward to their

<sup>1</sup> Preface to *The Best Form of Government*. G. C. Lewis, 1813. London: Parker, Son, & Brown.

posts. To surprise men prepared in this way was well-nigh impossible. Argumentation, too, is a warfare in which words are the weapons, sentences and paragraphs are the troops, and the speaker or writer is the general.

Ordinary argument, of course, does not fail completely to consider the opponent's work; it simply notes the arguments stumbled upon in the writer's reading, does not try to master the opponent's case. What is omitted, however, may be just the knowledge that will lose or win the argumentation. For instance, it is very easy in studying some subjects to read with care on the matter and yet to get but one view of the question. If a student is asked: Can there be a Science of Criticism? and reads only what Brunetière, or Lemaître, or Hennequin, says on the matter, he will be dominated by the ideas of the one critic read, and though he may have seen a little of some objections to the particular theories advanced, they will seem weak and unimportant. It is only by reading the opinions of all these three men, whose methods differ widely, that the different views of the question can be clearly seen. If, too, a student is asked: Were the Colonists or the Indians to blame for King Philip's War? he will find that books have been written entirely in favor of each side. If he reads books of either sort, he can write only an ineffective argument, for he does not know what can be said against him. If he reads a book evidently written to support the Colonists against the Indians, he should search for a book supporting the Indians against the Colonists, and by weighing the arguments on both sides should decide which set of ideas preponderates, or, at least, what arguments he must answer if he is to support either side. A student

should remember, then, that to argue successfully he must read widely and critically in order to comprehend the case as a whole. That is, he must study not only all that can be said in his behalf, but also all that can be said in behalf of his opponent.

### A THIRD RESULT OF HASTY PREPARATION.

Hasty preparation without any preliminary scrutiny of the content of one's mind on the subject in debate and without search for the strength of an opponent's case has another marked danger for the beginner in argumentation. The result of this hasty, ill-considered work is a mere abstract of the volumes read. The books, often written carefully, even if prejudicedly, naturally state the ideas but crudely phrased in the worker's mind better than he can, and therefore he is unable to throw off their influence. The ideas that are new to him dominate him, because they accord with what he wishes to believe and he has read little or nothing with which to combat them. He does not make a servile copy of the book, but he offers a jumbled paraphrase of it that is not much better. The danger, though especially common with beginners in argumentation, is by no means confined to them. The late Bishop Brooks said to the Yale divinity students in his lectures on preaching: "The man of special preparation is always crude; he is always tempted to take up some half-considered thought that strikes him in the hurry of his reading, and adopt it suddenly, and set it before the people, as if it were his true conviction. Many a minister's sermons are scattered all over with ideas which he never held, but which once held him for a

week, like the camps in other men's forests, where a wandering hunter has slept for a single night."<sup>1</sup> This fault can be avoided only by observance of the rule already given for wide, and above all, critical reading. The man who understands the value of every idea he uses cannot commit this error.

### TWO RULES FOR THE USE OF MATERIAL NOT ONE'S OWN.

*Students should remember, that (1) whenever they give another's words exactly, quote him, they should place the words within quotation marks, and in a footnote acknowledge their indebtedness, naming the source of the quotation, the chapter or page, and, if there is more than one volume or edition, the volume and the edition used; (2) they should not, by mere paraphrasing, seek to win credit for ideas that are really another's.*

Sometimes a clever student will re-state a writer's thoughts in fewer words or more clearly, but if he is perfectly honest, he will acknowledge in a footnote that the gist of his words is borrowed, and tell whence it is taken. These two laws, too often transgressed, are really but common honesty in literary work.

### INDIVIDUALITY, ORIGINALITY, IN ARGUMENTATION.

The objection may be raised here that the work of which we have been speaking seems to lead only to servile copying of others or to compiling from their work, and to prevent any originality on the part of a student. The questions, however, in which a student can depend

<sup>1</sup> *Lectures on Preaching*, p. 157.

entirely on his own experience and his own thinking for arguments for his side are very rare. Even in these rare cases he must look beyond himself for most of the objections likely to be raised against him. In nearly all cases he must, in considering both sides of his case, read the work of others. What has been said is, therefore, but a statement of the preparation that underlies all careful, intelligent, and ultimately convincing argumentation—wide reading, and careful, critical consideration of the material *pro* and *con*. Moreover, it means much more than copying or mere compilation for all except the worker who is content simply to read, not to think as he reads and after he has finished reading. It is the thought that a worker spends on the material he gathers that gives old ideas new forms, new meanings, that finds previously unrecognized relations and suggestions in them, which makes the worker have a right to call them his own as he presents them to his audience. Two statements of this fact, one from a college student, the other from James Russell Lowell, will perhaps make it convincing for any to whom it is not self-evident. The student wrote:—

“Every one who has read much when working up some topic has often had the experience of finding when he has read a large number of books that he has in the end some idea or theory, parts of which he can trace to almost every book of the number, the whole of which he can hardly recognize as belonging to any one. He hardly understands the final compound. He cannot say that it belongs to the author of any one of the books he has read. He cannot even say it is a composite of the ideas of all the books. In working up both my forensics this year, I read a great deal. My mind kept in

a perfect boil all the time, and after each book or article I seemed to have a different conformation of ideas. Ideas of my own that I started out with were totally or almost entirely changed in the end. Nor had I apparently changed them for those of any one else. They were not on the other hand original. I am sure every one some one had thought of before. In fact, they had flashed through my own mind in a vague way at different times in my life. My forensics were, in short, little like my own original ideas and they were not the ideas in any exact sense of any one else. I had taken the ideas of other men and moulded mine by them. My application of them was often very different from the application of the authors themselves, yet I had used them and owed them something."

This is the poet's view of the case :—

FRANCISCUS DE VERULAMIO SIC COGITAVIT.

That 's a rather bold speech, my Lord Bacon,  
For, indeed, is 't so easy to know  
Just how much we from others have taken,  
And how much our own natural flow?

Since your mind bubbled up at its fountain  
How many streams made it elate,  
While it calmed to the plain from the mountain,  
As every mind must that grows great?

While you thought 't was you thinking as newly  
As Adam still wet with God's dew,  
You forgot in your self-pride that truly  
The whole Past was thinking through you.

Greece, Rome, nay, your namesake, old Roger,  
With Truth's nameless delvers who wrought  
In the dark mines of Truth, helped to prod your  
Fine brain with the goad of their thought.

As mummy was prized for the rich hue  
The painter no elsewhere could find,  
So 't was buried men's thinking with which you  
Gave the ripe mellow tone to your mind.

I heard the proud strawberry saying,  
"Only look what a ruby I 've made !"  
It forgot how the bees in their Maying  
Had brought it the stuff for its trade.

And yet there 's the half of a truth in it,  
And my Lord might his copyright sue ;  
For a thought 's his who kindles new youth in it,  
Or so puts it as makes it more true.

The birds but repeat without ending  
The same old traditional notes,  
Which some, by more happily blending  
Seem to make ever new in their throats ;

And we men through our old bit of song run,  
Until one just improves on the rest,  
And we call a thing his in the long run,  
Who utters it clearest and best.<sup>1</sup>

#### SUMMARY.

In brief, then, in preparing for the discussion of a proposition a student should (1) examine the content of his own mind on the subject and clear it for action ; (2) strive to understand the case for his opponent as well as he does his own ; (3) read (*a*) widely, (*b*) with careful, critical consideration of the material for and against him ; and (4) by passing all the material through his own thought transmute it into new shapes, give it a new significance, impart to it something of himself, — in a word, make it his own.

<sup>1</sup> *Heartsease and Rue*, Lowell's Works, p. 197. Houghton & Mifflin.

## CHAPTER V.

### EVIDENCE.

#### I. THE NATURE OF EVIDENCE.

##### WHAT ASSERTION IS.

THE most common fault in argumentation is assertiveness, that is, the unqualified affirmation that something is true or false, wise or foolish, etc., without any statement of the reasons why the writer or speaker holds his opinion. When, for instance, a minister, talking recently to his congregation on the lessons to be drawn from the war between China and Japan, told them that the reason for the success of the Japanese was that they keep Sunday and the Chinese do not, he asserted. Any cautious member of the congregation might well have wished to be given proof that the Japanese as a nation keep Sunday in the exact sense in which Americans do. Even if he granted this, as he might be willing to do, he would certainly have wished to hear proof that this custom among the Japanese is not only a sufficient cause to lead to so great a result as the overwhelming success of the Japanese army, but the only cause. Had the minister been asked, after his sermon, to give such proof, the absurdity of his sweeping statement would soon have been laid bare. Such treatment of a subject as the minister gave his requires a reader or hearer to take simply on the word of the writer or speaker whatever he asserts. Such implicit confidence one has, of course, a perfect right to refuse to all comers.



## THE ARGUMENT FROM AUTHORITY.

Indeed, under only one set of conditions is unsupported assertion safe. There are men and books which are regarded as authorities on the subjects they treat, and their testimony as to facts and inferences from facts is accepted unquestioningly. For the Puritan of 1620 the Bible was authoritative, an unquestionable statement of the will of God. For the good American to-day what the Constitution sanctions is right ; what it does not sanction, even impliedly, is wrong. The Puritan of 1620 settled an argument by quoting as final and indisputable a text of the Bible. To-day an American at times quotes in the same way an article of the Constitution. These men give, not a careful statement of the reasons for a belief held by them, but merely an unsupported statement of another ; that is, they use the so-called Argument from Authority. When it is proper to use this, then, and then only, is an unqualified affirmation of something as true permissible.

## THE DANGERS OF THE ARGUMENT FROM AUTHORITY.

If a student considers when it is proper to use this Argument from Authority, in what its strength consists, he will see that it must be used with great care ; that it is of variable value ; that the final judge as to the propriety of using it at any time is, not the writer or speaker himself, but the audience addressed ; and that at any moment its authoritativeness is liable to be questioned, when the assertion must be supported like any ordinary statement. The strength of the Argument from Authority comes

ultimately from the fact that people in general may be assumed to admit that on the subject under discussion the book or the person cited cannot state ideas or make judgments incorrectly. With books and men this power comes either from inspirational knowledge of the truth, as in the teachings of Christ and Mohammed in the Bible and the Koran, or from a reputation for truthfulness and profound knowledge of the subjects treated which the writer or speaker has at some time gained. A form of the so-called Argument from Authority much used in recent years is the testimony of experts. Men are asked to give opinions as to matters which require years of previous special study of them if accurate answers are to be made. The men selected for such testimony are always chosen because their probity and their special study of the subject under discussion are known to be widely recognized. Courts, in trials for murder and forgery, have tried to regard the assertions of such men as to the common authorship of two signatures, as to the necessarily fatal effect of the dose of medicine found in the body, as final.

That the same assertion may, in different places, under different circumstances, vary in its degree of convincingness will also be clear after a little thought. For instance, suppose that in discussing with a Mohammedan some question of morality a Christian quotes some precept of the Bible as final authority in the matter. Unless this precept, which for the Christian is a perfect argument from authority, is in the Koran also, the Mohammedan will not feel the force of it, may even, denying its authoritativeness, ask the Christian to show him why this precept should be unhesitatingly followed. Certainly the Christian would behave in the same way as the Moham-

medan, if the latter tried to clinch his argument by citing as final authority something in the Koran which is not found in the Bible. The famous scientist who talks in a series of University Extension lectures to a somewhat ignorant audience may, if he is clear in explaining just what he believes, venture to make a good many assertions on the strength of his reputation. A much more intelligent audience which knows that some of the views to which this man clings are fiercely combatted by other scientists will not be so willing to trust his mere assertions. This is true, not because the audience doubts his honesty, but rather his complete mastery of the subject.

Clearly, too, the moment that any man doubts either the honesty or the knowledge of a writer or speaker and asks for reasons why he should accept the statement made, it becomes for him only a mere assertion in need of all the support that bare assertion usually requires. The doubt may be entirely unjustified, but if it exists the argument from authority is merely an assertion.

In brief, then, the Argument from Authority requires a general admission by the public addressed, be it large or small, of the authority of the book or speaker. Willingness to make that admission rests ultimately on a general belief in (*a*) the honesty of the writer or speaker, (*b*) his mastery of his subject. The Argument from Authority evidently, then, must not be used until thought has been given as to its probable authoritativeness for the audience in mind. Its force fails the moment its authoritativeness is questioned, and it is likely to be questioned, rightly or wrongly, at any moment. When that moment comes, the Argument from Authority is at once but a mere assertion,

and reasons for believing it true must be produced forthwith.

#### PROOF : ITS ORIGIN AND WHAT IT IS.

Evidently, then, the only permissible use of unsupported assertion depends on a recognition by the public addressed of the plausibility of the statement made and the honesty and the scholarliness of the person cited. It must be clear that but comparatively few men can stand all these tests. Either their statements, like that of the minister cited on page 176, seem startling, or the audience is ignorant of their qualifications or suspicious of them. Something in the assertion made, then, or in the person making it, will cause a hearer or reader to ask for the reasons for the belief stated. It is this request for an explanation of the grounds on which a belief rests that creates *proof*. "*This word seems properly to mean anything which serves, either immediately or mediately, to convince the mind of the truth or the falsehood of a fact or proposition.*"<sup>1</sup> Whatever, then, a writer or speaker offers in support of his statements — quotations, logical deductions, skillful analysis, illustrations, figures, etc., etc. — is, taken as a whole, his proof of their truth. Each portion of his proof is *evidence*, for the latter is "*that which generates proof. Any matter of fact, the effect, tendency, or design of which is to produce in the mind a persuasion affirmative or disaffirmative of the existence of some other matter of fact.*"<sup>2</sup> If Analysis and Structure are the first two important divisions of argumentation, Evidence is an equally important third.

<sup>1</sup> Best, *On Evidence*, p. 5.

<sup>2</sup> *Idem*.

ASSERTION ORDINARILY DOES NOT PROVE ANYTHING TO BE  
TRUE OR FALSE.

The almost constant need in argumentation of proof, of evidence, students forget. Even those who analyze well, and construct a good brief, often fail in supporting the plan they have drawn up. After reading widely among writers on their subject they feel so sure of the correctness of their resulting opinions that they simply state clearly what these opinions are and expect their audiences to accept their words without question. *A student should remember that in argumentation he has no right, except when he is sure he speaks as a generally recognized authority on his subject, to ask any audience to accept as conclusive his simple affirmation about anything. He should remember that nothing can be proved true by assertion.*

It is just this idea, that assertion proves nothing, which Sir Thomas Wyatt insisted on in the opening of his plea for his life when accused of high treason: —

“First you must understand that my masters here, sergeant ———, and other of the King’s Counsel that allege here against me, were never beyond the sea with me, that I remember. They never heard me say any such words there, never saw me have any intelligence with Pole, nor my indicters neither. Wherein you must mark, that neither these men which talk here unsworn, nor the indictment at large, is to be regarded as evidence. The indicters have found that I have done. If that be true, what need your trial? but if quests fetch their light at indictments at large, then is a man condemned unheard; then had my Lord Dacres been found guilty; for he was indicted at large by four or five quests; like was his matter avowed, affirmed, and aggravated by an help of

learned men ; but on all this the honourable and wise nobility did not once look ; they looked at the evidence, in which they weighed, I suppose, the malice of his accusers, the unlikelihood of the things hanging together, and chiefly of all, the substance of the matter and the proofs.”<sup>1</sup>

#### WHAT PURE ASSERTION PRODUCES AS ARGUMENTATION.

The kind of work produced when a writer entirely forgets, or never knew, that simple assertion proves nothing, the following forensic, already quoted in part for another purpose (pp. 17-18), will show : —

#### “WAS THE COURSE OF THE BEACONSFIELD MINISTRY IN THE EASTERN QUESTION ADVANTAGEOUS TO ENGLAND?

[1.] In 1876 Bulgaria declared war against Turkey ; and it was in this war that Turkey committed the horrible massacres known as the ‘Bulgarian Atrocities.’

[2.] The war would never have been begun between Turkey and Bulgaria, had it not been for Turkish misrule, which was well known by other countries as well as by Bulgaria. Servia and Montenegro were left alone to fight with Turkey, after the other states which belonged to the ‘confederacy’ were obliged to back out for want of supplies. Of course, these two states could not carry on war with Turkey on equal footing, and soon a treaty for peace was made.

[3.] Now Russia put herself forward, and the Czar demanded a treaty which much favored Bulgaria. At this point Beaconsfield recognized the fact that Russia wanted to get Turkey into her own power and thereby enter Constantinople, which would give Russia the control of the Black Sea. Therefore Beaconsfield used all the influence he could to preserve peace between Russia and Turkey.

<sup>1</sup> *The Poetical Works of Sir Thomas Wyatt*, p. lxxii. Bell & Daldy.

[4.] By this time Russia had advanced her forces as far as Adrianople.

[5.] Russia claimed, as she always had, that she was looking after the interests of the Christian subjects of the Sultan.

[6.] Now this is certainly a good, charitable, and commendable purpose, but it is certain that there was a deeper motive than this, which made Russia so anxious to interfere with Turkey, namely, 'Russia wanted control of Constantinople.'

[7.] Beaconsfield understood this to be Russia's object, and he immediately ordered troops to be placed under arms, ready to attack Russia at any moment; and he told Russia that if she advanced further than Adrianople he would consider it a *casus belli*.

[8.] Beaconsfield wanted to hold a conference of the Great Powers of Europe, whose decision concerning Turkey should be final. But Russia would not agree to any such treaty unless certain agreements, which were favorable to Russia, made about a year before, should be adhered to. Beaconsfield, on the other hand, would not listen to Russia's demand, and for a time, it seemed as though war was certain. But by a private consultation with Russia, Beaconsfield got Russia to agree to a treaty at Berlin.

[9.] At this treaty Russia gained nothing, owing, no doubt, to Beaconsfield's good work. Russia would not be allowed to have warships in the Black Sea, and the Straits should be open to trading vessels. Let us consider a moment, what would have been the result, had Russia obtained command of Constantinople.

[10.] Lord Beaconsfield once said: 'Constantinople is the Key of the East.' If Russia had power over Constantinople, she would have entire command of the Black Sea, and also command of the way to India; and she would, in time, take command of India, which is a fertile country, and therefore of greatest advantage to an European country.

[11.] England owned India, and depended on it for many products, and Beaconsfield saw that if Russia once obtained command of Constantinople England's chances to keep India would be very small.

[12.] Beaconsfield obtained the island of Cyprus as a military station, and this was a gain for which England cannot too highly praise Beaconsfield. From its geographical situation it is clear that it commands the territory which was most important to England. From it England has control of the Suez Canal, the passage to India, which is certainly of greatest importance to England.

[13.] Had Russia been allowed to enter Constantinople she would virtually have had command of all Europe, and this would have been a most undesirable state of affairs. Everybody knows what Russian government is, and to think that it should be the principal power in Europe, can but make one's blood run cold.

[14.] The treaty at Berlin roused all Europe against Russia. The Powers of Europe now saw what a danger Russia was, and what mischief she could do if Turkey was in her power, and they therefore were ready to unite against Russia at any time.

[15.] I admit that the treaty did not settle the question permanently, but it was the best thing which could have been done, for by it Russia was no nearer to Constantinople, and England had obtained the island of Cyprus as a military station.

[16.] It is argued that it was a disgrace for Beaconsfield to take the part of such a depraved, barbaric country as Turkey; but it seems to me that such arguments should be left out of a question of this kind. Beaconsfield did take the part of a 'barbaric' country, but it was the salvation of not only England but of all Europe. Perhaps he felt that by taking Turkey's part England could gain influence in Turkey and prevent



the misrule which existed in Turkey. But we must leave sentiment out of this question. Beaconsfield thought that a treaty was the best thing, and therefore he asked for one; and it *was* the best policy. If any one wants to deny that Beaconsfield's policy was not for the best interests of England, let him offer a plan which Beaconsfield ought to have followed. Perhaps such a person will say that England ought to have bought Constantinople from Russia, but this is absurd, for Russia would never have thought of allowing England to enter Constantinople, for *any* sum. And to sell Constantinople to Russia would have been anything but advantageous to England, as shown above. The only remaining course would have been a war between England and Russia. This, no doubt, would have settled the matter. But what an awful thing would war have been! Do we not always hear, 'Let arms alone when they are not needed'?

[17.] A war between these two countries would have resulted in terrible loss of life, and tremendous expense; and it might have lasted for years and years. After considering these arguments carefully, I question whether any one can deny that Beaconsfield's course was advantageous to England.

[18.] When Beaconsfield returned to England he was received with applause and welcomed as a benefactor to his country. The Queen herself approved most heartily his policy."

#### HOW THE ASSERTIVENESS OF THIS FORENSIC MIGHT BE REMOVED.

Any careful reader of this so-called forensic will see at once that the writer has not analyzed his topic carefully, and therefore confusedly mingles introductory and argumentative matter, treating about equally all the ideas he advances. Emphasizing the important ideas, subordination of what is of secondary rank, he does not under-

stand. What, however, is most interesting in this forensic at the moment is that it is a succession of unqualified affirmations, of assertions, which the writer apparently expects a reader to accept on his authority. But, since his lack of analysis shows that he does not understand a fundamental division of Argumentation, can a reader assume that he is entirely trustworthy in his management of another great division, Evidence? Hardly.

In a topic like that which the writer of the forensic treats, the origin of the question, the causes for the war, will very probably determine the treatment to be given the case. Therefore, a cautious reader will, in the first two paragraphs of the forensic, ask to be made sure that the statements as to the origin of the war and the course of affairs up to the time when Beaconsfield took part in them are not in any particular open to dispute. This the writer could readily do by stating in foot-notes the sources of his information and by pointing out that articles which draw entirely different conclusions as to the advantageousness of Lord Beaconsfield's conduct agree as to these details of the origin of the question. Clearly, then, at the very outset of this forensic, a careful reader will call for evidence of the correctness of the statements made. If, then, a revision of this forensic were attempted, the introductory matter when gathered together from the different paragraphs should rest on a basis of careful footnotes stating the sources of the information.

In paragraph 3 the writer makes a complicated assertion, — that Beaconsfield recognized that Russia wanted to get Turkey into her power, and thereby Constantinople, in order to control the Black Sea. A keen reader will

at once see that this assertion must be one of the vital issues in the case. Evidently this is either the only reason, or, as we shall see, one of the reasons urged in defense of the conduct of Lord Beaconsfield. Just what his conduct was should have been stated before this excuse, or reason for it, was given; but the careless writer gives it only bit by bit in the succeeding paragraphs. A reader sees what it was only as he finishes reading the forensic. But Russia did not admit the truth of the assertion quoted. She says, as the writer admits, that "she was looking after the interests of the Christian subjects of the Sultan." Here is assertion against assertion. When a reader can see which is the correct statement, he will be well on the way to a conclusion as to the whole question. He needs, then, to know (1) why the writer is so sure of what he implies, that the exclusion of England from the Black Sea would be disadvantageous (for not all readers, indeed very few, are likely to know much of England's maritime interests), and (2) how he knows so well that Russia was (*a*) scheming to get control of Constantinople, (*b*) in order to control the Black Sea, and (3) that Beaconsfield acted as he did because he saw all this clearly. Here, in the contents of one sentence, work enough for a forensic is mapped out for the writer. He, however, satisfies himself with saying over and over that these statements and others in regard to new details of Beaconsfield's conduct which he adds are true. Evidence he does not give.

The statement that the exclusion of England and the other countries from the Black Sea would be disadvantageous to England should be proved true by quotations as to the grain trade of England with Southeastern

Russia, figures as to its extent; quotations and brief summaries of the evidence of competent men as to the danger to British India if Russia controlled the Black Sea and could transport her troops unmolested to the Asian shore. The statement that Russia was scheming to get control of Constantinople should be proved true by an examination of any parts of her past history, any of her acts in the matter under discussion, any testimony from unprejudiced persons, any admissions or slips on the part of her officials, which seem to point to this conclusion. That she schemed for Constantinople in order to control the Black Sea should be shown by a map to prove that whoever holds Constantinople and is a first-class power can close at will the Dardanelles; and by testimony from Russian, English, and any good sources, as to the desirability for Russia of excluding the English from the grain trade in the Black Sea and gaining an easier access to British India. That Beaconsfield saw all this—the desires of Russia and their causes—should be shown by quoting his own words and citing acts of his which make his words good. Evidently, then, one sentence of the writer's when properly treated will grow into a forensic.

The rest of the work illustrates the same fault, reckless assertiveness that does not prove anything to be true. Paragraph 4 should be given a footnote referring to the source of the writer's information in order that a reader, if he wishes, may look up further details of the movements of the Russians. Paragraph 5 needs references, for the statement in it is, as has been seen above, very important. It would be even better to cite some authoritative Russian statement that this was the cause of Russia's conduct. In paragraph 6 the writer simply

reasserts what he said in paragraph 3, and a reader sees that he was right in thinking the statement fundamental in the argument. Paragraphs 7, 8, and 9, with the exception of the words, "owing, no doubt, to Beaconsfield's good work," add details which really belong in the introduction. The clause mentioned should, of course, have been reserved for the discussion itself. The paragraphs need, like paragraphs 1 and 2, references to articles on both sides, in order that a reader may see they are undisputed. Paragraphs 10, 11, and 12 take a reader into argumentative matter, and therefore need evidential support. In 11 the writer returns to the idea of the Black Sea, meeting the reason for Russia's desire to control Constantinople, and thereby the Black Sea, which came out in the discussion above of the important assertion of paragraph 3, namely, Russia's desire to get into India. A careful reader will prefer not to be told that Lord Beaconsfield, whose conduct is in question, said: "Constantinople is the Key of the East," but to be shown why this saying is true. The next assertion, that if Russia held Constantinople she would control the Black Sea, has already been considered, and, if a reader follows the loose arrangement of this writer, has been proved true. The next assertion, that Russia, in control of the Black Sea, would command the way to India, has been partly considered in what has been said of the ease with which she could place troops in Asian territory. A more careful workman than this writer would also show the effect on English access to the Suez Canal if Constantinople were in the hands of Russia. The two statements in paragraph 11 should be part of the proof of the third assertion of paragraph 10. To be convincing, the first needs illus-

trations to show what kind of products indispensable to England India alone offers her; the second needs explanation of Russia's ambitions in regard to India, of affairs in India, of the boundaries of India nearest Russia, and the conditions of the people living near them.

Paragraph 12 adds a new introductory idea, — that Beaconsfield gained Cyprus for England. The assertions in regard to the value of the island made in the second and the third sentences could best be proved true by a map and a little explanation. This paragraph really connects itself in thought with the third assertion of paragraph 10, — that by control of Constantinople Russia would command the way to India, — for both consider the Suez Canal. Paragraph 13 adds a new assertion that must be proved true by the map already used and by an explanation of the relation to Constantinople and the dominant power in it of the other sections of Turkey and of adjacent countries. The writer simply shudders at what he thinks would happen if Russia were in control of Europe, does not show that she would be in control, or that he has a cause to shudder. Paragraph 14, if it is to have any force, must bring out that all Europe was roused, must show what the different countries did or said through their representatives. Treated in this way, it would have climactic force as showing that the representatives of the European nations agreed with Beaconsfield. Treated as the writer treats it, the paragraph gives simply a vague reference to important evidence which should be produced. Paragraph 15 adds a qualification in its first line, and would come in better, therefore, at the end of the introduction, when the writer is narrowing the question. By that arrangement the last two lines would become part of the statement to be proved true in the forensic.

In paragraph 16 the writer attempts to take up some of the arguments of those opposed to his views. Really, all that he has been saying is an answer to the first objection he names. Therefore this objection would come in better at the beginning, where it could be answered by all that has been discussed. The end of his first sentence in this paragraph dodges the question. The second sentence admits what has just been pointed out, that all that has preceded is an answer to this objection. The writer next turns to a qualified assertion—a useless statement as it stands. If he can prove that Beaconsfield hoped to prevent or to check misrule in Turkey, he should do so, though not here but early in his work, for the effect on Turkey is less important than the effect on England and all Europe—what he has been discussing. If he cannot prove this, he might better say nothing about it. The “perhaps,” then, or the whole sentence, should be dropped. If the sentence, modified, stands, proof of its truth should be brought forward. The next two sentences very clumsily raise the objection that the difficulty could have been met better by some other means than a treaty. The second of these sentences is too vacuous to need comment. The first suggestion as to the sale of Constantinople can hardly be taken seriously, and seems a concoction of the writer’s fertile brain. The second very important suggestion as to war the writer slurs with a generality, and then passes, in paragraph 17, to a broadly assertive suggestion of the ways in which the undesirability of such a war might be shown. It should have been his work to point out carefully, by the evidence of careful exposition and convincing logic, why the treaty was far better than war. If the probable loss

of life, — judged by the Crimean war, for instance, — the probable expense, the probable duration of such a contest were briefly shown, this paragraph would have probative value. Paragraph 18 ends the work, not with a clear statement of what has been proved, but with the idea that Beaconsfield's countrymen hailed him as a benefactor. It is not true that all did. Here is a questionable assertion at the very end of the work.

In this forensic, then, there is assertion on assertion, not one bit of well-handled proof. The detailed examination of this so-called argument should make clear how ineffective, how weak and unconvincing, assertion is.

#### PROPER SUPPORT OF ASSERTION.

The way in which assertions should be supported the following illustrations show. Adam Smith, writing in his *Wealth of Nations* on the advantages of division of labor, makes this assertion : —

“The greatest improvement in the productive powers of labor, and the greater skill, dexterity, and judgment with which it is anywhere directed and applied, seem to have been the effects of division of labor.”

He was, however, too wise to let this stand unsupported, and he added, in order to make clear the truth of his statement : —

“To take an example, therefore, from a very trifling manufacture, but one in which the division of labor has been very often taken notice of, the trade of the pin-maker ; a workman not educated to this business (which the division of labor has rendered a distinct trade), nor acquainted with the use of the machinery employed in it (to the invention of which the same division of labor has probably given occasion), could scarce,



perhaps, with the utmost industry, make one pin a day, and certainly could not make twenty. But in the way in which this business is now carried on, not only the whole work is a peculiar trade, but it is divided into a number of branches, of which the greater part are likewise peculiar trades. One man draws out the wire, another straightens it, a third cuts it, a fourth points it, a fifth grinds it at the top for receiving the head : to make the head requires two or three distinct operations ; to put it on is a peculiar business ; to whiten the pins is another ; it is even a trade by itself to put them into the paper ; and the important business of making a pin is, in this manner, divided into about eighteen distinct operations, which in some manufactories are all performed by distinct hands, though in others the same man will perform two or three of them. I have seen a small manufactory of this kind where ten men only were employed, and where some of them consequently performed two or three distinct operations. But though they were very poor, and therefore but indifferently accommodated with the necessary machinery, they could, when they exerted themselves, make among them about twelve pounds of pins in a day. There are in a pound upwards of four thousand pins of a middling size. Those ten persons, therefore, could make among them upwards of forty-eight thousand pins in a day. Each person, therefore, making a tenth part of forty-eight thousand pins, might be considered as making four thousand eight hundred pins in a day. But if they had all wrought separately and independently, and without any of them having been educated to this particular business, they certainly could not each of them have made twenty, perhaps not one pin in a day ; that is, certainly not the two hundred and fortieth, perhaps not the four thousand eight hundredth part of what they are at present capable of performing, in consequence of a proper division and combination of their different operations.”<sup>1</sup>

<sup>1</sup> *Wealth of Nations*. The Division of Labor. Specimens of Exposition. H. Lamont. pp. 105-107. H. Holt & Co., 1894.

Macaulay, in his famous review of Croker's *Boswell's Johnson*, said:—

“Nothing in the work has astonished us so much as the ignorance or the carelessness of Mr. Croker with respect to facts and dates. Many of his blunders are such as we should be surprised to hear any well-educated gentleman commit, even in conversation.”

Macaulay next takes up many statements of Croker, and by considering each justifies the assertions made above. Here is an example of his method:—

“In one place, Mr. Croker says that at the commencement of the intimacy between Dr. Johnson and Mrs. Thrale, in 1765, the lady was twenty-five years old.<sup>1</sup> In other places he says that Mrs. Thrale's thirty-fifth year coincided with Johnson's seventieth. Johnson was born in 1709. If, therefore, Mrs. Thrale's thirty-fifth year coincided with Johnson's seventieth, she could have been only twenty-one years old in 1765. This is not all. Mr. Croker, in another place, assigns the year 1777 as the date of the complimentary lines which Johnson made on Mrs. Thrale's thirty-fifth birthday. If this date be correct, Mrs. Thrale must have been born in 1742, and could have been only twenty-three when her acquaintance with Johnson commenced. Mr. Croker, therefore, gives us three different statements as to her age. Two of the three must be incorrect.”<sup>2</sup>

Edmund Burke, in his speech on *Conciliation with the American Colonies*, made this assertion:—

“But I confess . . . my opinion is much more in favor of prudent management than of force; considering force not as

<sup>1</sup> Macaulay carefully gives references to the places in Croker's edition where the misstatements cited occur.

<sup>2</sup> *Essays on Croker's Edition of Boswell's Life of Johnson*, p. 334. H. Holt & Co., 1893.

an odious but a feeble instrument for preserving a people so numerous, so active, so growing, so spirited as this, in a profitable and subordinate connection to us."

This assertion he supports with the following explanation of his reasons for making it :—

"First, Sir, permit me to observe, that the use of force alone is but *temporary*. It may subdue for a moment ; but it does not remove the necessity of subduing again : and a nation is not governed which is perpetually to be conquered.

"My next objection is its *uncertainty*. Terror is not always the effect of force ; and an armament is not a victory. If you do not succeed, you are without resource : for, conciliation failing, force remains ; but force failing, no further hope of reconciliation is left. Power and authority are sometimes bought by kindness ; but they can never be begged as alms by an impoverished and defeated violence.

"A further objection is, that you *impair the object* by your endeavors to preserve it. The thing you fought for is not the thing you recover ; but depreciated, sunk, wasted, and consumed in the contest."<sup>1</sup>

Here is an assertion from the prospectus of a building company :—

"After deducting ten per cent from the estimated income and paying all taxes and expenses of every nature, the net rentals are sufficient to take care of the interest on the mortgage, and pay dividends of five dollars per share, leaving a surplus of eleven thousand eight hundred and seventy dollars, or nearly sixteen per cent of the gross income."

The assertion is supported by the following figures :—

<sup>1</sup> *On Conciliation with the American Colonies*. Edmund Burke. Political Orations. Camelot Series, pp. 65, 66. W. Scott, London.

*Income.*

Estimated rentals . . . . .	\$74,300
Deduct ten per cent for vacancies . . .	7,430
	<hr/>
Net rentals . . . . .	\$66,870
Estimated expenses, including taxes . . .	19,000
	<hr/>
	\$47,870
Interest on \$400,000 mortgage at	
four per cent per annum . . .	\$16,000
Dividend \$5 per share. on 4,000	
shares . . . . .	20,000
	<hr/>
	\$36,000
	<hr/>
	\$11,870

## II. KINDS OF EVIDENCE.

A careful reader will have noticed that the evidence used in these illustrations is of different kinds. The assertion of Adam Smith is proved true by careful statement of an illustration. The second is proved correct by an examination of the words of Croker, which shows their contradictoriness and absurdity. The third rests for its proof on a series of propositions which are so self-evident, or rest on facts so generally admitted, that any reader must grant their truth. The fourth statement is proved correct by means of figures. Plainly, then, there are different kinds of evidence—very many, probably, for but a few of an infinity of assertions have been quoted. Evidently, then, he who would argue well must not only recognize that evidence is needed in all argumentation, but must learn what kinds of evidence there are.

## EVIDENCE HERE NOT LIMITED AS IT IS IN COURTS.

Pages 8-13, of Chapter I, pointed out that courts of law limit strictly the evidence to be used in them. A student of Argumentation, except when he is asked to take the legal point of view in treating his case, should clearly understand that he is bound by none of these laws of evidence of the courts. The reasons for this the pages just referred to explained at length, and the following quotation sets forth with great clearness:—

“No reasonable man, who, for his own satisfaction wished to ascertain what was the conduct of the dock laborers during the recent strike, what were their motives in leaving their work, and how far, by force or otherwise, they intimidated the so-called ‘black-legs,’ would ever tie his hands by any rules of evidence” [that is, rules of the courts]. “Our inquirer would listen to everything said by persons who had, or were likely to have, direct or indirect knowledge of what took place before or during the strike; he would give ear to general report; and, though, if he understood his work, he would in his own mind distinguish carefully between the probative value of different kinds of statements, he would certainly not reject information which weighed upon his judgment, because it was only secondary or hearsay evidence. A judge, on the other hand, occupied in trying laborers on a charge of conspiracy to prevent ‘black-legs’ from entering into the employment of the Dock Company, would reject much evidence which our investigator would receive. He would on principle shut his ears to the effect of certain alleged facts; he would reject all hearsay; he would not pay attention to common report; he would in many cases decline to consider any but the best evidence.

“To point out the distinction between ordinary inquiry and judicial procedure does not involve the necessity for censuring

either the common-sense customs of every-day life, or the rules of evidence adopted by the Courts. The objects of ordinary investigation and of a judicial inquiry are different. It is natural, therefore, that each should be conducted on somewhat different principles. In the case, for example, of research into a matter of history, the investigator's sole object is to get as near the truth as he can. His end is knowledge. It is, therefore, better that he should run some risk of error than that he should close his eyes to evidence which, though it may occasionally mislead him, holds out the promise of guiding him, if not to certain, yet to highly probable, conclusions. A judge's object in the conduct of a criminal trial (as, indeed, to a certain extent, in the conduct of any trial) is different. His aim is to come to a conclusion—then and then only—when the conclusion is certain enough to justify the pronouncing of a decision. As against the prisoner, at any rate, he wishes in effect to come to no conclusion at all—or rather, in England, to prevent the jury from coming to any conclusion at all—unless it be one established with what, for practical purposes, we may call certainty. Hence, he deliberately excludes from his view considerations which, though valuable as a guide to probability, involve appreciable risk of error. He is, moreover, compelled to reject evidence of certain descriptions, not so much because it would lead to error as regards the particular case which is before the Court, as because the admission of it would, as a general rule, prevent the production of a better kind of evidence. This is the main reason why a witness is not generally allowed to give verbal evidence as to the contents of a written document.”<sup>1</sup>

#### COMMON DIVISIONS OF EVIDENCE.

The broad field of evidence has been divided according to different plans, and the divisions named. It is

<sup>1</sup> *The Verdict*, A. V. Dicey, Q. C., pp. 12, 13. Cassell & Co., 1890.

doubtless convenient for a student of Argumentation to know what are the common divisions made, but he need not bother himself greatly with their nomenclature, provided he understands clearly what evidence is, has impressed on his mind ineradicably the vital need of it in Argumentation, and knows how to distinguish good from bad evidence, a matter to be explained a little later.

(a) *Testimonial and Circumstantial Evidence.* — A division of evidence used very effectively by Professor Huxley in the first of his three lectures on evolution is into testimonial and circumstantial evidence.

“By testimonial evidence I mean human testimony;<sup>1</sup> and by circumstantial evidence I mean evidence which is not human testimony. . . . Suppose that a man tells you that he saw a person strike another and kill him; that is testimonial evidence of the murder. But it is possible to have circumstantial evidence of the fact of a murder; that is to say, you may find a man dying with a wound upon his head having exactly the form and character of the wound which is made by an axe, and, with due care in taking surrounding circumstances into account, you may conclude with the utmost certainty that the man has been murdered; that his death is the consequence of a blow inflicted by another man with that implement.”<sup>2</sup>

(b) *Direct and Indirect Evidence.* — Plainly, human testimony may state either of two things: that the witness saw the murder committed, or that for some reason other than direct observation of the deed, he believes that it was committed. In both cases there is human testimony,

<sup>1</sup> This, of course, includes the testimony of men living or dead, by word of mouth or in books or documents.

<sup>2</sup> *Lectures on Evolution.* Huxley. Specimens of Argumentation (Modern), pp. 70, 71.

but in one case it is direct testimony as to the deed, in the other indirect. It must be evident that in the second case the judgment rests on circumstances from which the witness draws his conclusion, — is really circumstantial evidence. Perhaps, then, a better division of evidence is the more common one — into direct and indirect (or circumstantial).

“The two are so interdependent, that it is only by extreme examples that we can dissociate them. All direct evidence must be sustained by circumstances, whilst all circumstantial evidence is dependent upon direct facts as stated by witnesses past or present.

“Let me give you an example of each, that this may be more clear to your minds. Let us suppose that several boys go to a pool of water to swim. One of these is seen by his companions to dive into the water, and he does not arise. His death is reported. This is called direct evidence. The boy was seen to drown, you are told, and your judgment concedes the fact readily. But is the proposition proved, even though you have these several witnesses to the actual drowning? Let us see. The authorities, later, drag the pool and find a body. The body is taken to the morgue, and the keeper there, an expert in such matters, makes the startling assertion that instead of a few hours, or let us say a day, the body must have been immersed for several days. This is circumstantial evidence. The keeper has no positive knowledge that this particular body has been under water so long. Still he has seen thousands of bodies, and none has presented such an appearance after so short an interval. How shall we judge between such conflicting evidence? On the one side we have direct evidence which is most positive. On the other we have circumstantial evidence which is equally so. Is the original hypothesis proven?<sup>1</sup> Does

<sup>1</sup> Students of Argumentation are warned against this word. “Proved” is the past participle. Except in the verdict “not proven,” “proven” has no proper use.



not the circumstantial evidence raise a doubt? Certainly. Now let us take another step. The witnesses to the drowning are called again, and view the body, and now among ten of them, we find one who hesitates in his identification. At once we find another circumstance wanting in substantiation of the original claim. Now we see, that all that was really proved was, that a boy was drowned; and not at all that it was this particular boy who was found. But is it proved that a boy was drowned when the boys were in swimming? How can it be in the absence of a drowned body which all can identify as their companion's? Now suppose that at the last hour, the original boy turns up alive, and reports that he had been washed ashore down the stream, and subsequently recovered. We find that our direct evidence, with numerous witnesses to the actual fact, was entirely misleading after all, because we had jumped to a conclusion, without duly considering the attendant circumstances of the case. So it is always. There is no such thing as positive proof which does not depend upon circumstances. The old example may be cited briefly again. If you see one man shoot at another and see the other fall and die, can you say without further knowledge, that one killed the other with his pistol? If you do, you may find later that the pistol carried only a blank cartridge, and that the man died of fright.

"It is equally true of circumstantial evidence, that without some direct fact upon which it depends it is worthless. As an example of this I may as well save your time by introducing the case at issue. If we could show you that the prisoner desired the death of this girl; that he profited by her death; . . . that she died under circumstances which made the attending physician suspect morphine poisoning; that as soon as the suspicion was announced, the prisoner mysteriously disappeared, and remained in hiding for several days; that he had the opportunity to administer the poison; that he understood the working of the drug; and other circumstances of a similar nature, the argument would be entirely circumstantial. All

this might be true and the man might be innocent. But, selecting from this array of suspicious facts, the one which indicates morphine as the drug employed, add to it the fact that expert chemists actually find morphine in the tissues of the body, and you see, gentlemen, that at once this single bit of direct evidence gives substantial form to the whole. The circumstantial is strengthened by the direct, just as the direct is made important by the circumstantial. The mere finding of poison in a body, though direct evidence as to the cause of death, neither convicts the assassin, nor even positively indicates that a murder has been committed. The poison might have reached the victim by accident. But consider the attendant circumstances, and then we see that a definite conclusion is inevitable. It is from the circumstantial evidence only that we can reach the true meaning of what direct testimony teaches.”<sup>1</sup>

Evidence, then, when considered with regard to its source, is called direct and indirect (or circumstantial).

(c) *Another Division of Evidence.*— Another division of evidence, in the past a good deal used by writers on Rhetoric and Argumentation, is into proof from Antecedent Probability, Sign, and Example.

1. *Argument from Antecedent Probability.*— The Argument from Antecedent Probability tries to account for something *that is assumed to be true*, — to find a motive for it. When the writer of the long quotation just cited points out that in the murder case he is discussing it would be helpful to show that the prisoner desired the death of the girl, that he profited by her death, he suggests using the Argument from Antecedent Probability. That

<sup>1</sup> *A Modern Wizard.* Ottolengui, chap. XI, pp. 171–176. Some slight changes, for greater clearness, have been made in the quotation.

is, he first assumes that there has been a murder, and then points out reasons, motives, for it.

This, as the writer himself says,<sup>1</sup> is but another name for a kind of circumstantial, or indirect, evidence, for the testimony is not that the witness saw the murder, but that because of certain circumstances known to him, he thinks that if it took place here is a cause for it.

2. *The Argument from Sign.* — The Argument from Sign “is an inference, from a part of a process, object, or fact, of the presence of another part, or of the whole, — is an argument from an effect to a condition.”<sup>2</sup> That is, when the keeper of the morgue said that the body in his charge had been in the water more than a day, he used the state of the body as an Argument from Sign of the truth of his words. He argued from the effect produced on the body by the water to the condition of long immersion; from the part of the process which he saw, he supplied the rest. Note that this Argument from Sign differs from the Argument from Antecedent Probability in that here a writer does not assume that the point in question is true and then find a reason for it, if true, but seeks at once to see if it is true. He does not say that what he points to as a sign of the presence of the result in question is a cause of it, but that in the past he has noted that when the result in question occurred this object or fact was one of the attending circumstances. The keeper does not say that the marks on the body caused the body to be three days in the water, but that, whenever

<sup>1</sup> “If he could show you that the prisoner desired the death of this girl, that he profited by her death, . . . the argument would be entirely circumstantial.”

<sup>2</sup> *Elements of Logic*, Wm. Wately. Sheldon & Co., N. Y., 1869.

that result has occurred, an essential attending circumstance has been a condition of the immersed body like the condition of the body in question. When, for instance, to use an old illustration, a man sees the barometer falling, he says, "We shall have bad weather." He does not mean that the falling of the barometer is a cause of the bad weather, but only that it is one of the conditions attendant upon bad weather, is an essential part of the process called bad weather.

Here again a kind of evidence already known to the reader is simply given another name. In the first case cited, the witness does not testify that he knows this is not the drowned boy, but states circumstances which make him believe that this is not the boy's body. In the second case, the witness does not testify that he saw the murder, but states conditions which make him think that murder may have taken place. That is, his testimony is indirect, or circumstantial evidence, though of another kind from that considered under Antecedent Probability.

3. *The Argument from Example.* — The Argument from Example rests on the idea that objects which resemble each other in two or more respects, *connected with the point in discussion*, will resemble each other in this particular point. That is, if in the murder case which has been used for an illustration, the lawyer for the prosecution showed that two or more circumstances in the case are the same as two or more circumstances in a past murder case, the details of which are known, and that in the past case these were inseparably connected with the fact of murder, he may argue that there has been murder here. Really this is but an intensified form of

the Argument from Sign. Like that, the Argument from Example seeks to show, not a cause for the result, if that exist, but that the result does exist. It seeks to establish a likeness of results by pointing out a likeness in the given case, not simply to one part of a past known process which led to the result in question, but to several parts. For instance, in the case just cited suppose that the lawyer can show that in both cases an over-dose of morphine was found in the body of the victim, that in each case the accused showed special knowledge of the use of morphine, that the relations of accused and victim were the same, and that these three conditions were inseparably connected with the proved murder in the first case. Then by the Argument from Example he would say that the accused in this case is the murderer. Yet each of these resemblances taken by itself is an Argument from Sign. As has been said, the Argument from Example covers any number of resemblances from two to complete resemblance. In all the degrees of resemblance, except the last, witnesses are not summoned to swear that they saw the murder but to state circumstances which lead to a belief that murder was committed, *i.e.*, to give indirect evidence. But a man cannot swear to the last degree, to the complete resemblance between two cases, unless he was a direct witness to the case in point. Therefore this evidence, the argument from complete resemblance, is direct evidence. Thus the three divisions, Antecedent Probability, Sign, and Example, cover the whole field of evidence.

The distinctions of evidence just given have not been very helpful to students of Argumentation, because the differences between them and especially that between

Sign and Example are difficult to state and to understand. The nomenclature is largely responsible for this confusion. If a student looks at the three kinds of argument from one point of view they may all be regarded as signs of the truth of the conclusion drawn; from another point of view he seems to consider in them all examples, though of varying degrees of convincingness. Consequently it would seem that he might call all of them Arguments from Sign, or all of them Arguments from Example. The assignment of each name to one only of the two forms appears arbitrary and confusing.

#### A FOURTH POSSIBLE DIVISION OF EVIDENCE.

The real significance of these terms, and, what is far more important, the real relations of the different kinds of evidence will, perhaps, become clearer to a student if he considers carefully a fourth possible division of the field of evidence, — that is, into argument from a resemblance which, if it be found that the result really occurred, may have produced this result; argument from a resemblance known in a past case to be an essential part of a process leading to the result in question; argument from a series of such resemblances; and argument from complete resemblance. The following will illustrate this method of division.

Two Harvard graduates are chatting of Harvard athletics. The first says: "Well, ever since that case of unfair tackling by a Harvard man two years ago at a critical moment for Harvard, I have never cared much for the game." "Ah, but," says the second, "do you know that there was unfair tackling? Was not that denied? Did

you see the game?" "No," the first admits, "I did not see the game, I simply repeat the general report current at the time. Did you see the game?" "No," says the second, "but I have never believed that there was any unfair tackling. What reason have you to believe that there was?" Note that neither of these men knows anything directly of the question in dispute, the tackling; that at the moment no direct evidence is possible. What is the first indirect evidence to support a belief in unfair tackling that the first man can produce? He may point out that it is a common saying, "A drowning man will clutch at a straw"; that the critical position of the Harvard team offered an analogy to the drowning man; and say that, therefore, the unfair tackling, the straw, was used. What the man does is to strive to find a resemblance between this case and another of which he knows something, and from the similarity to draw the conclusion that the cases are alike in the point in question. He tries to use the so-called Argument from Analogy, which shows, not that the two cases are alike in the point in question, unfair tackling, but in another respect, — a condition of a drowning man. But the second man will point out that until the first can prove that the position of the Harvard team was just as critical as that of the drowning man, that they were in a position to do anything which could aid them, he can prove nothing about the point in question, the tackling. That is, *an analogy can have no probative value until it is shown that there is some essential connection between the point of resemblance and the result in question. The most that it can offer in itself argumentatively is a very slight increase in probability that the result in question may be true.*

Suppose, however, that the second man had heard enough of this particular game to be willing to admit that the situation was, indeed, as critical as this for the Harvard team. Immediately this resemblance offers a possible motive for the unfair tackling. That is, there is now granted a slight antecedent probability that the unfair tackling took place. The Argument from Analogy, then, as has just been seen, is not separable here, as *an argument*, from the Argument from Antecedent Probability. If the resemblance cannot be shown to be connected with the point in question, it cannot be used as an argument ; if it can, it becomes the Argument from Antecedent Probability, or one of the two kinds of argument still to be explained, Sign and Example.

If, now, the first man tries to find other Arguments from Antecedent Probability, he may say that the man accused of unfair tackling is known to have an ugly temper, to be tricky, that he is known to have a grudge against the man tackled. Here he really says: "Comparing this case with others, all the circumstances of which I know, I see here a possible motive for the act that in a past case was the motive for a like result, unfair play." Thus far the first man has not brought forward any proof that there was unfair tackling, but, assuming that there was, has been trying to find a cause for the assumed result. Consequently, an Argument from Antecedent Probability cannot by itself convince. It needs stronger evidence to support it. It simply shows a varying degree of probability that the result in question took place. Note that all the resemblances in the illustrations given have been seen by the first speaker, the investigator, so to speak, of the case. He might, however, draw his argu-



ment, not from a resemblance to a past case known to him, but like the second speaker, if he accepts the argument of the first, from a resemblance to something in the experience of another person, a resemblance first seen by another, and dependent for its force on the correctness of that other person's experience. Evidently such a resemblance may first have been pointed out by a living witness, or in a letter or some publication by one now dead.

The evidence thus far produced to support the idea of unfair tackling may be tabulated as follows<sup>1</sup>:—

I.

Indirect Evidence.	Judgment before Experience.	A. Resemblance seen by me (the speaker or writer).	(a) Argument from a resemblance, the possible connection of which with the point in question needs demonstration.	Argument from Analogy.
			If the resemblance is shown (1) not to be connected with the point in question it has no value as proof in the case under discussion; if (2) it is shown to have connection with it, then it becomes the Argument from Antecedent Probability, from Sign, or from Example.	
		B. Resemblance seen by others.	(b) Argument from a resemblance to something seen in a past case to have been a or the cause of a result like that in question, and, if the occurrence of the result in this case is proved, probably a or the cause of the result in question.	Argument from Antecedent Probability.

<sup>1</sup> The tables which follow are developed from that on pp. 127, 128 of an *Introduction to Theme Writing*, Fletcher and Carpenter.

The two men have now exhausted the kinds of proof that may be adduced by those who did not see the game. Suppose, then, that a third man enters who saw the game, and who, though he cannot say that he saw the unfair tackling, firmly believes that it took place. On what will he rest his belief, when the second man asks him for his reasons? This third man will say that he believes as he does, not only because he knows that the condition of the game gave the Harvard men a motive for the alleged act (Antecedent Probability), but also because the position in which the accused man and his opponent lay when the men who had piled on top of them drew off proves that there was unfair tackling. Here, again, proof rests on a resemblance. This time the third man really says: "I recognize in this case an essential part of the process of unfair tackling wherever it occurs; wherever one sees this sign, I know from past experience that the rest of the process must be present when this part is; therefore I know that in this case, though I could not see it, there was unfair tackling." This is simply what has been previously considered as the Argument from Sign.

It may be, however, that this man saw not one resemblance to cases of tackling known to him, but from two to a dozen resemblances. Recalling past cases of unfair tackling to the minds of his hearers, he points out that in those, as well as in this instance, the man running with the ball was holding it in the same way, that the relative sizes of the man tackled and the man tackling were the same, that the look of the field as the two men in question appeared from under the other players was the same, etc. He carefully points out, too, that in the past cases all these points are known to have been essen-

tial parts of the process of unfair tackling. That is, he offers not one Argument from Sign, but a series of them. This is but the so-called Argument from Example. In using both these arguments the man says, not "If there was unfair tackling, then," etc., but "There was unfair tackling, because," etc. Clearly the discussion has passed from judgment without any experience as to the point in question, the tackling in a certain game, to judgment after partial experience in regard to it — knowledge of the circumstances giving rise to the charge.

The people who can bear witness of the two kinds, Sign and Example, in favor of the idea of unfair tackling are of three sorts: other people than the first speaker, who divide into two classes, living and dead witnesses; and the first speaker himself. That is, a man may join the two disputants, as in the case above, who can give this testimony because he saw the game, a living witness; or the two men may hunt up a file of the *Harvard Crimson* and read in an old number evidence from Sign or from Example, given by a writer no longer living; or, to put aside the first hypothesis, that neither of the original debaters saw the game, the first of the two men may have been at the game and, though he did not see the unfair tackling, may have seen what seem to him signs of it.

These two arguments may be tabulated as follows :—

## II.

Indirect Evidence.	Judgment after Partial Experience.	A.	(a) Argument from a resemblance to something that in a past case was an essential part of a process leading to the result in question that the same result must occur in this case.	Argument from Sign.
			or	
		B.	(b) Argument from two or more resemblances known in a past case to be essentially connected with the result in question that the same result will occur in this case.	Argument from Example.
		By other men.		
		(a) Living.		
		(b) Dead.		

Plainly, the more resemblances the first man can show between conditions attending the alleged unfair tackling and conditions connected with unfair tackling in a past game or games, the more convincing he will become. As he increases these resemblances he may finally reach complete resemblance, but this recognition of completeness of resemblance means that the witness must have had full experience both of the past cases and of the present case, — must give direct evidence. Plainly, it can be given, as was the testimony in II, by other men, living or now dead, who were at the game and testify that they saw the unfair tackling, or by the first speaker, who testifies that he himself saw it.

This new evidence may be tabulated as follows :—

III.

Direct Evidence.	Judgment after Experience.	(a) Complete resemblance. Seen by others. 1. Living witnesses. 2. Dead witnesses.
		(b) Complete resemblance. Seen by me (the speaker or writer).

The whole field of evidence may, then, be tabulated in this way :—

Indirect Evidence.	Judgment before Experience.	A. Resemblance seen by me (the speaker or writer).	(a) Argument from a resemblance, the possible connection of which with the point in question needs demonstration. If the resemblance is shown (1) not to be connected with the point in question, it has no value as proof in the case under discussion; if (2) it is shown to have connection with it, then it becomes the Argument from Antecedent Probability, from Sign, or from Example.	Argument from Analogy.
		B. Resemblance seen by others.	(b) Argument from a resemblance to something seen in a past case to have been a or the cause of a result like that in question, and, if the occurrence of the result in this case is proved, probably a or the cause of the result in question.	

Indirect Evidence.	Judgment after Partial Experience.	<i>A.</i> Resem- blance seen by me (the speaker or writer.)	<i>(a)</i> Argument from a resem- blance to something that in a past case was an essential part of a process leading to the result in question that the same result must occur in this case.	Argument from Sign.
		or <i>B.</i> By other men. <i>(a)</i> Living. <i>(b)</i> Dead.	<i>(b)</i> Argument from two or more resemblances known in a past case to be essentially con- nected with the result in ques- tion that the same result must occur in this case.	
Direct Evidence.	Judgment after Experience.	<i>(a)</i> Complete resemblance. Seen by others. 1. Living witnesses. 2. Dead witnesses. <i>(b)</i> Complete resemblance. Seen by me.		

This chart shows, then, that it is possible to divide the field of evidence on the basis of completeness of resemblance between two phenomena, and that in so doing a student moves by graduated steps from a resemblance that has no probative value to complete resemblance. It must make clear, too, that this method of division but renames what has already been considered as Direct and Indirect (or Circumstantial) Evidence; or as the Argument from Antecedent Probability, the Argument from Sign, and the Argument from Example. The chart shows, also, that all Evidence must be from a man's own experience or from that of other men.

THE FUNDAMENTAL REASON WHY ONE MAN QUESTIONS THE  
EVIDENCE OF ANOTHER.

This last very broad division of evidence for any man, into his own and that of other men, is very significant because it opens up the subject of tests of evidence. Each human being is so constituted that for him what seems to him true, is true, and should, he ordinarily thinks, be true for all his fellowmen. It is this fact in human life which underlies the tendency of all men to assert their opinions unqualifiedly. They forget that lack of equal knowledge of the subject, differences of temperament, prejudice, many causes, may make their neighbors unable to see the matter as they themselves do—at least not without explanation of the reasons for their belief. That is, for any man his recognitions of complete resemblances, his identifications, are more convincing than those of another man, while for that other man his own identifications are more convincing than those of the first. Each will dispute the truth of the other's identifications. This is true of men clashing in their judgments, not only when both think they have had full experience, but even when they judge from partial experience or before experience, or when one has the advantage of the other in full or in partial experience as opposed to partial or no experience. In all these cases what the opponent will question will be the sanity, the good faith, or the good judgment of his opponent. Sometimes he will question two or all of these. He may know that the man is not quite right in his mind and—to recur to the football illustration—sees unfair plays in every game he attends. Or he may know that he is willing to defend a friend, even at the cost of truth.

Or he may know that he does not understand football well enough to be able in a difficult case to tell fair from unfair tackling. He may, then, attack the first man's evidence on any of these grounds. This opponent, however, who questions other men's evidence so closely must always remember that his own judgments after full, after partial, and before experience, are open to objections on just the grounds he has used from all who do not agree with him or do not understand him. *Every kind of evidence, then, in the chart on pages 213, 214 is likely to be objected to on some or all of the three grounds — lack of sanity, good faith, and good judgment.*

SOME GENERAL REASONS WHY EVIDENCE SHOULD BE  
CAREFULLY SIFTED.

There are two general reasons why any cautious worker in Argumentation should carefully weigh and sift every bit of evidence — not merely his opponent's, but his own just as thoroughly — that comes before him as he is preparing his case.

The first reason for such careful examination is that he shall thoroughly understand the strength of both sides of the case, and shall not fail at some important place by overestimating the value of his own proof, or underestimating the strength of that of his opponent. The second reason is that when a writer does give undue value to a bit of evidence he loses more than the point at the moment under consideration; he causes the reader to wonder whether this failure comes from a trickiness that would palm off evidence as convincing which is not, and evidence as unconvincing that is strong, or from a failure to understand the case. Under either supposition the reader



becomes suspicious and may doubt the convincingness of what has preceded, or the value of all that follows. That is, such a failure raises a feeling of distrust of either the fairness or the ability of the worker, and is very prejudicial to his interests. A student of Argumentation cannot afford ever to try to use a bit of evidence for a purpose for which it is unfit. There is not only convincingness but persuasive power in a handling of evidence which shows that the worker has correctly valued his material.

This necessity for caution in using even the evidence which favors a writer's views will become apparent to any one who tries to uphold the affirmative or the negative on some topic of the day. He will gather his material from chats with friends, from the newspapers and the periodicals, editorials, letters to the press, and speeches of congressmen. It is self-evident that all the material gathered cannot have an equal value; it is not, apparently, self-evident to beginners in Argumentation how weak much of the evidence on such topics necessarily is. To begin with, most of the letters and articles are expositions of opinions, not arguments, and what they give is not proof through well-selected evidence of the truth of the opinions. The student who uses these words, therefore, quotes mere assertions. That is but one step away from his own bare assertions, which he has learned not to expect any one to accept, and why should a careful reader accept these? Often they come from some letter signed only with initials, often they are from an unsigned article. If a student quotes any part of one of these articles he uses not only unsupported assertion, but an unsupported assertion for which no one can be held responsible. What possible value, then, can it have? Even when the quo-

tation is an editorial, or a signed article in a magazine, unless reasons for the opinions are given, it is, after all, mere assertion. Unless, therefore, it can be taken as the Argument from Authority, it is valueless. Even when these articles give evidence, it needs close examination for political or personal bias. Moreover, in these days, men frequently write magazine articles, not because they know more than other men on the subjects, but because the fame that has come to them in another field will surely sell copies of the magazine containing anything they write. A student who does not weigh carefully the evidence for, as well as against him, is like a lawyer who, without any previous knowledge of his witnesses, hears their story first on the witness-stand, and is forced to let their testimony count for what it will. If they do not prove what he wishes to prove, if they involve him in unexpected difficulties, he must not complain, for it is his own fault. Nor must the writer who works in the same way complain. The careful worker will scrutinize, consider, and value every bit of evidence that comes to him, and by throwing out, first, what is plainly entirely valueless, and then what, because of other stronger evidence in his possession, is for him worthless, gradually reduce his material to evidence all of which has been tested by him and found to have value in his work. Even this, however, must be a mass made up of parts of varying values, and the student must clearly settle their relative strength if he is to complete successfully from these bits the mosaic of his argumentation.

Plainly, then, to learn how to test the sanity, the good-faith, and the judgment of those, living and dead, who offer a student evidence for and against the theory he

wishes to examine, must be a very important part of the study of Argumentation.

TO QUESTION EVIDENCE IS ALWAYS TO QUESTION A JUDGMENT.

Before a reader considers in detail what the chief tests of the value of a bit of evidence are, it will probably help him to see just what it is that he does when he questions a fellow-being's statement. If he looks at any one of the many kinds of statements on pages 206-214, he will see that all involve, apparently, two things: certain so-called "facts"; and a judgment from these facts. That is, when the first man says that since a bit of unfair tackling, if undiscovered, would have saved the day for Harvard, and adds that therefore Harvard probably did tackle unfairly, he really says this: 1. Unfair tackling in this game at a particular moment would, if undiscovered, have saved the day for Harvard; 2. In past cases this motive has been sufficient to cause unfair tackling; 3. Therefore there probably was unfair tackling here. If the second man wishes to deny the truth of the words of the first he can do either of two things: attack the statements which serve as facts, from which the conclusion 3 is drawn; or say that the conclusion is false, though 1 and 2 are not. If he attacks 3, showing that though 1 and 2 are true, sufficient counteracting causes were present to prevent 3 from following on them, it is clear that he attacks a judgment by the other man, what Professor Sidgwick has called a "question of theory."<sup>1</sup> If he attacks 1 or 2, showing that foul play would not have bettered the situation, or that in the past the motive named has

<sup>1</sup> For a fuller treatment of this matter, see pp. 12-20, *Process of Argument*, Sidgwick.

not led to the result, it would seem, at first sight, that he deals with something different, with a question of fact rather than with a question of judgment. This, however, is not true. In either case what is really questioned is a judgment by the opponent. In the first case the opponent really said: "From a resemblance between this game and other games known to me, I form the judgment that foul play at the point in question would have saved the day." This is, clearly, a judgment. In the second case the opponent really said: "From resemblances seen between games in the past I form the judgment that the motive for foul play in them was the dire need of the side which made it." Clearly, then, all reasoning is but a series of judgments, and whenever an opponent questions a bit of evidence what he really doubts is a judgment by the witness.

### III. TESTS OF EVIDENCE.

#### I. TESTING THE STATEMENT.

When, then, a man makes an assertion which a student does not understand, or does not wish to believe, what should be his first steps in attacking the evidence? Take, again, the illustration already used. The first man said: "Probably there was unfair tackling in the football game." "I do not believe that. Why do you think so?" the second answered. The first then said: "Because an unfair tackle at just that point in the game was enough to save the day, and that motive has in past cases caused unfair tackling." The second man, unwilling to give in, will first look at these two reasons to see if there is anything in them to attack. Suppose that he grants the second statement, but says that he cannot believe that even an unfair tackle could

have saved the Harvard game in the crisis named. Then he says: "That does not seem to me in accordance with ordinary experience — you must give me proof that it is." Or he may say: "I cannot believe this, because we already know other circumstances which show that this was not the only hope — what you say does not agree with the other facts already known in regard to this case." Or he may object: "Your statement is in itself contradictory; therefore I cannot believe it." That is, a statement, a bit of evidence, may in itself be questioned on any one of these three grounds: "*Is it consistent with ordinary experience; with the facts already known concerning the case; is it consistent with itself?*"<sup>1</sup>

(a) *Evidence should be Consistent with Ordinary Experience.* — When John Mandeville writes of beings who have no heads, but have eyes and mouths between their shoulders, when he talks of dog-faced men, a reader refuses to take his words for more than fairy tales, because they are not consistent with human experience.

The following quotation from *A Roman Lawyer in Jerusalem*, a poetic plea in behalf of Judas,<sup>2</sup> is simply a statement of the details in his career, which seem, if he were a criminal, contrary to ordinary experience.

"Was he a villain lost to sense of shame?  
 Ay, so say John and Peter and the rest;  
 And yet — and yet this tale that Lysias tells  
 Weighs with me more the more I ponder it;  
 For thus I put it: Either Judas was,  
 As John affirms, a villain and a thief,

<sup>1</sup> *Outlines of Rhetoric*, Genung, p. 410. Ginn & Co., 1893.

<sup>2</sup> *A Roman Lawyer in Jerusalem*. W. W. Story. pp. 12-14. Colby & Rich, Boston.

A creature lost to shame and base at heart—  
Or else, which is the view which Lysias takes,  
He was a rash and visionary man  
Whose faith was firm, who had no thought of crime,  
But whom a terrible mistake drove mad.  
Take but John's view, and all to me is blind.

Call him a villain who, with greed of gain,  
For thirty silver pieces sold his Lord.  
Does not the bribe seem all too small and mean?  
He held the common purse, and, were he thief,  
Had daily power to steal, and lay aside  
A secret and accumulating fund.  
So doing, he had nothing risked of fame,  
While here he braved the scorn of all the world.  
Besides, why chose they for their almoner  
A man so lost to shame, so foul with greed?

Or why, from some five-score of trusted men,  
Choose him as one apostle among twelve?  
Or why, if he were known to be so vile,  
(And who can hide his baseness at all times?)  
Keep him in close communion to the last?  
Naught in his previous life, or acts, or words,  
Shows this consummate villain that, full-grown,  
Leaps all at once to such a height of crime.

Again, how comes it that this wretch, whose heart  
Is cased to shame, flings back the paltry bribe?  
And, when he knows his master is condemned,  
Rushes in horror out to seek his death?  
Whose fingers pointed at him in the crowd?  
Did all men flee his presence till he found  
Life too intolerable? Nay; not so!  
Death came too close upon the heels of crime.  
He had but done what all his tribe deemed just:  
All the great mass — I mean the upper class —  
The Rabbis, all the Pharisees and Priests —  
Ay, and the lower mob as well who cried,

‘Give us Barabbas ! Christus to the cross !’ —  
These men were all of them on Judas's side,  
And Judas had done naught against the law.  
Were he this villain, he had but to say,  
‘I followed Christus till I found at last  
He aimed at power to overthrow the State.  
I did the duty of an honest man.  
I traitor ! — You are traitors who reprove.’  
Besides, such villains scorn the world's reproof.

Or he might say — ‘You call this act a crime ?  
What crime was it to say, “I know this man” ?’  
I said no ill of him. If crime there be,  
’T was yours who doomed him unto death, not mine.’

A villain was he ? So Barabbas was !  
But did Barabbas go and hang himself,  
Weary of life — the murderer and thief ?  
This coarse and vulgar way will never do.  
Grant him a villain, all his acts must be  
Acts of a villain ; if you once admit  
Remorse so bitter that it leads to death  
And death so instant on the heels of crime,  
You grant a spirit sensitive to shame,  
So sensitive that life can yield no joys  
To counterbalance one bad act ; — but then  
A nature such as this, though led astray,  
When greatly tempted, is no thorough wretch.  
Was the temptation great ? Could such a bribe  
Tempt such a nature to a crime like this ?  
I say, to me it simply seems absurd.

Peter at least was not so sensitive.  
He cursed and swore, denying that he knew  
Who the man Christus was ; but after all  
He only wept — he never hanged himself.”

## THE WEAKNESS OF THIS TEST.

When the objection is raised to evidence that it is contrary to ordinary experience, clearly the evidence cannot be conclusive unless the writer is sure that he knows all that ordinary experience has to offer in regard to it. Such complete knowledge is, of course, extremely rare. Further study by the writer, new discoveries, may suddenly turn what was extraordinary into mere ordinary experience. When, twenty years ago, Paul du Chaillu wrote of the pigmies in Africa, and told of other marvels seen in the wilds, many men smiled, called his books entertaining stories, and refused to give them more than a partial credence. That was because what he said seemed to be inconsistent with ordinary experience. To-day, however, the discoveries of Stanley and of later explorers have vindicated M. du Chaillu. Evidently, then, all that a student can say to such evidence is, "After careful search I can find nothing that supports the assertion that this idea is common experience, and for the present I must declare it untrustworthy." Such a flaw in the evidence, then, shows a probability rather than a certainty that it is incorrect as a whole, the strength of the probability depending on the amount of knowledge which the student has of the question in dispute.

(b) *Evidence should be Consistent with the Other Known Facts of the Case.* — When, however, evidence given is not consistent with the facts already known concerning the case, it at once becomes very suspicious. For instance, in the following case, the theory of Pasteur could hardly stand in the face of what seemed established truths :—

"When Pasteur was investigating the causes of splenic fever he adopted, very early in the inquiry, the theory of Dr. Davaine,



that the disease was due to the presence of a certain parasite in the blood, and that consequently the same disease, showing the presence of the same parasite, could be communicated to other animals by inoculation. On the other side, two professors to whom the theory did not commend itself brought forward, as a triumphant refutation of it, what seemed at first a plainly contradictory fact. They had inoculated some rabbits with the blood of an animal which had died of splenic fever, and though the rabbits had died very rapidly no trace of the expected parasite had been found in them either before or after their death. Moreover, their blood had been used to inoculate other rabbits, and these too had died in the same rapid manner, but with the same disregard of what the theory further required. Davaine at once disputed the *fact*. That is to say, he insisted that the two professors must have used blood which was not properly infected with splenic fever, but with some other disease. The professors, however, were equally certain of their facts; they had got their materials from the best available source, namely, from the director of an establishment where numerous animals which had died of splenic fever were constantly brought. But in order to convince the stubborn theorist they tried the experiment again, this time obtaining their materials from the most experienced veterinary surgeon in the neighborhood. Exactly the same result followed, and the facts certainly here appeared to be too strong for the theory.”<sup>1</sup>

That is, the theory here was not consistent with the known facts in the case.

#### A DANGER OF THIS TEST.

Of course the so-called “facts” which are contradicted must be very carefully examined and shown not to be open themselves to any possible doubt, before a writer

<sup>1</sup> *The Process of Argument*. Sidgwick. pp. 95-96. A. & C. Black, 1893.

decides against the new opposing evidence as inadmissible. A student should always remember that simply because a statement contradicts generally accepted ideas it is not, as has been shown, necessarily false. In the case of Davaine just cited later investigation proved that the so-called "facts" of the professors were not facts at all.

"It was some years later when the real weakness of the facts themselves came to light. Davaine's theory had meanwhile been enlarged and improved by the discovery that if the blood used for inoculation has already begun to putrefy, the animals inoculated will die by a form of blood-poisoning, quicker in its operation than splenic fever, and too quick to allow the true splenic fever parasites time to multiply. This suggested a new inquiry into the professors' experiments, and it was found that the blood used by them, although certainly taken from cases of splenic fever, had not been sufficiently fresh. So that the fact on which they relied as contradicting the theory turned out to be wrongly — *i.e.*, incompletely — described. Through merely overlooking the detail that the animals whose blood they used had been dead some twenty-four hours, their description of it as 'splenic fever blood' became essentially false."<sup>1</sup>

(c) *Evidence should be Consistent with itself.* — The next test of evidence — whether it is self-consistent — is more final. Certainly the following contradictory sentences taken from a school-book would hardly be accepted as conclusive evidence in a question on the date of the invention of the magnetic telegraph :

"Question 159: What of Professor Morse's invention?

"Answer: He invented the magnetic telegraph, which was the grandest event during Polk's administration.

"Question 160: What was the first news sent on the wire?

"Answer: The announcement of Polk's nomination."

<sup>1</sup> *The Process of Argument.* Sidgwick. p. 97. A. & C. Black, 1893.

It is by pointing out contradictions that Macaulay, in his stinging review of Croker's edition of *Boswell's Johnson* chiefly convicts Croker of untrustworthiness as an editor.

"Mr. Croker tells us in a note that Derrick, who was master of the ceremonies at Bath, died very poor in 1760. We read on; and, a few pages later, we find Dr. Johnson and Boswell talking of this same Derrick as still living and reigning, as having retrieved his character, as possessing so much power over his subjects at Bath that his opposition might be fatal to Sheridan's lectures on oratory. And all this in 1763. The fact is, that Derrick died in 1769.

"In one note we read that Sir Herbert Croft, the author of that pompous and foolish account of Young which appears among the 'Lives of the Poets,' died in 1805. Another note in the same volume states that this same Sir Herbert Croft died at Paris, after residing abroad for fifteen years, on the 27th of April, 1816."<sup>1</sup>

#### SUMMARY OF THE FIRST TEST.

When, then, a writer is asked to accept evidence that states something contrary to ordinary experience, or that contradicts other known facts in the case, or contradicts itself, he has a right to refuse to take it as proof of the truth of the assertion it is intended to support. Evidence of the third kind should be carefully excluded from his work, and the other two kinds as well, unless the witness is prepared to show that ordinary experience in regard to his case has not been heretofore properly reported, or that the "facts" contradicted are not really facts at all.

<sup>1</sup> *Essays on Croker's Boswell's Life of Johnson*, pp. 333, 334. H. Holt & Co., 1893.

## 2. TESTING THE CONDITIONS UNDER WHICH THE STATEMENT WAS MADE.

An objection to throwing out self-contradictory evidence might be raised on the ground that the contradiction may not come from ignorance but from the timidity, the nervousness of the witness. Clearly, however, the evidence is in itself of no value until the contradiction is cleared away. If a student tries to examine how the contradiction arose, he passes to a second test of evidence — the conditions under which the evidence was given.

(a) *Is the Witness Willing or Reluctant?* — It is under this test that a writer should consider whether the witness seems ready or reluctant to give his testimony. "A man stands at the bar on a charge of embezzlement. If he hunts for and produces all his books, bills, and receipts, and is ready to go into the state of his accounts and all his money transactions, then the jury who deliver a verdict of 'not proven' may well in the eyes of candid observers show rather the strength of their own prejudices than the guilt of the prisoner. But if the accused refuse to produce his account books or ledgers, or at the moment he finds himself suspected, destroys every scrap of paper which, were he innocent, might establish his innocence, but if he were not innocent, might demonstrate his guilt, then a verdict of 'not proven' will not clear his character. Every one will feel that that conduct which has saved the accused from conviction has also left him subject to irremovable suspicion of guilt."<sup>1</sup>

(b) *Was the Testimony given under Compulsion?* — Plainly enough, forced testimony is suspicious. One great reason

<sup>1</sup> *The Verdict*, A. Dicey, p. 19. Cassell & Co., 1890.

why it is hard to write an accurate account of the Salem witchcraft and of Spain in the time of Philip II. is that in both cases torture forced from agonized men and women much of the evidence now extant. Under such conditions much must have been said which could not have been true, for men in agony will say almost anything they are asked to say. Surely it would seem apparent that evidence given under compulsion must be handled very cautiously. Yet students are careless in the matter, if the evidence thus extracted favors their side of a case. For instance, the question "Was Philip the Fourth's treatment of the Templars justifiable?" involves consideration of evidence wrung from Templars upon the rack. The weight given this goes far to settle the discussion for the affirmative or the negative. Of course, the really cautious investigator will give such evidence but little credence, unless other evidence, which can stand the tests that may be given to proof, points to the same conclusion. The topic "Was Elizabeth justified in beheading Mary, Queen of Scots?" involves consideration of the evidence forced from Mary's secretaries by torture. They confessed only to recant when free. Assigning a value to their evidence on the rack becomes, then, a very delicate matter. It cannot be used against Mary with any force unless some value has been established for it by other evidence which has been carefully tested.

#### SUMMARY OF THE SECOND TEST.

Whatever, then, in the circumstances under which testimony is given suggests or proves that the witness did not speak the truth, makes it suspicious, in the former case, or, in the latter, completely throws it out.

## 3. EXAMINING THE WITNESS HIMSELF.

A third test is to examine, not the statement or the circumstances under which it is made, but the witness himself, to see if anything about the man affects his power or his will to speak the truth.

(a) *Is the Evidence Prejudiced, does it show Personal Interest?* — In using this test a student should, first of all, be on his guard against prejudices, personal interest, that may affect the testimony given. For example, in the minds of most men the love of their own national customs and methods of life strongly colors the glasses through which they see and judge a foreign land. If, too, a writer is evidently strongly wedded to some theory that he wishes to establish, or is so deeply concerned in the case as to have important issues, himself, at stake — his reputation as scientist, lawyer, inventor, etc., — or is closely connected with the person under trial, his testimony should be well scrutinized before it is accepted. The ardent supporter of the belief that Bacon wrote Shakespeare's plays; a mill-owner pleading for a high tariff; the wife of a man accused of robbery upholding his character; may all be held to be prejudiced witnesses who must be regarded with suspicion. Indeed, it is from a recognition of the fact that personal interest produces a strong bias one way or the other that the Argument from Authority is most often questioned. This is best seen in the growing hesitancy to accept that form of the Argument from Authority best known as expert testimony. The following shows why all the evidence of an expert, and therefore most of all his unsupported assertions, must be carefully scrutinized.

“Lord Campbell says : ‘ Skilled witnesses come with such a bias on their minds to support the cause in which they are embarked, that hardly any weight should be given to their evidence.’ These are strong words, but what does Lord Campbell mean? That an eminent scientist would go upon the witness-stand, and perjure himself merely because he has been engaged to substantiate a given proposition? Not at all. . . . But the expert does not give us an unbiased opinion. The reason is plain. . . . His opinion is sought in advance. If favorable he is engaged. When engaged he becomes a hired advocate, as much as the lawyer. Moreover, unlike the witness of facts, his testimony is tinged by a personal interest. He knows that celebrated experts will oppose his views. His reputation is on trial, as it were. If the verdict is for his side, it is a sort of juridical upholding of his position. He is therefore arrayed against his antagonists, as much as the lawyers of the opposing sides. In short, having once expressed an opinion, he will go to any extreme almost, to prove that he is right. The questions asked by the counsel for his side, the majority of which he prepares or dictates himself, are glibly and positively answered. But when the cross-examination begins, what do we see? An interesting spectacle from a psychological standpoint. We see a man, honest in his intentions, standing between two almost equal forces; the love of himself and of his own opinions, on the one side, and upon the other the love of scientific truth which is inherent in all truly professional men. When a question is asked, to which he can reply without injury to his pronounced opinion, how eagerly he answers. But when a query is propounded which his knowledge shows him in a moment, indicates a reply which his quick intelligence sees will be against his side, what does he do? We find that he fences with the question. As anxious not to state what he knows to be false, as he is not to injure his side of the case, he parries. He tells you in hesitating tones, ‘ It may be so, in rare cases,’ ‘ Other men have

seen and reported such circumstances, but I have not met them,' 'It might be possible under extraordinary circumstances, but not in this case,' and so on, and so on, reluctant to express himself so that he may be cited afterwards."<sup>1</sup>

(b) *Is the Witness Intellectually Strong?* — Another test under this division is to examine the intellectual capacity of the witness. At times the evidence of a writer or thinker must be thrown out because of his mental dullness. He may state a desirable conclusion, but examination will show that it is improperly reached. The dullness of Croker in the following is Macaulay's reason for refusing to accept his statement. A careless man writing a critical article unfavorable to Sir William Jones would doubtless like to use Croker's words, but any cautious reader would at once see the valuelessness of his evidence because of the stupidity of the witness.

"All our readers have doubtless seen the two distichs of Sir William Jones, respecting the division of time of a lawyer. One of the distichs is translated from some old Latin lines; the other is original. The former runs thus :

'Six hours to sleep, to law's grave study six,  
Four spend in prayer, the rest on nature fix.'

'Rather,' says Sir William Jones,

'Six hours to law, to soothing slumbers seven,  
Ten to the world allot, and all to heaven.'

The second couplet puzzles Mr. Croker strangely. 'Sir William,' says he, 'has shortened his day to twenty three hours, and the general advice of "all to heaven" destroys the peculiar appropriation of a certain period to religious exercises.' Now, we did not think that it was in human dulness to miss the

<sup>1</sup> *A Modern Wizard*. R. Ottolengui. pp. 157-160.



meaning of the lines so completely. Sir William distributes twenty-three hours among various employments. One hour is thus left for devotion. The reader expects that the verse will end with 'and one to heaven.' The whole point of the lines consists in the unexpected substitution of 'all' for 'one.' The conceit is wretched enough; but it is perfectly intelligible, and never, we will venture to say, perplexed man, woman, or child before."<sup>1</sup>

Under this subdivision come the witnesses who misunderstand what is self-evident, as in the case just cited; who cannot "remember truly; and who cannot make an intelligent report of what they have observed."<sup>2</sup> The stupidity in the first and third cases will be apparent on the face of the evidence; in the second, a past reputation for a bad memory, or the conflict between the evidence and that of a number of good witnesses who agree in all the details of their story, will show the faulty memory of the witness.

(c) *Are the Physical Powers of the Witness Sound?* — Not only may mental dullness make testimony untrustworthy, but dullness of the physical powers may have a like effect.

"In every statement of a witness is involved the assertion that the sense through which his information was derived correctly represented to him the object he describes, and in the truthfulness or falsity of this assertion is the ultimate and crucial test of his reliability. This is a field of inquiry which the vigilant cross-examiner will never neglect to explore. In ages past it may, perhaps, have safely been assumed that, as a rule, the organs of sensation were in sound condition, but in these

<sup>1</sup> *Essays on Croker's Boswell's Johnson*, p. 343. Holt & Co., 1893.

<sup>2</sup> *Outlines of Rhetoric*, Genung, p. 409. Ginn & Co.

modern days no such presumption can be entertained. Whatever be the cause, the proportion of mankind in civilized communities who are known to suffer from the failure of one or more of the great organs to perform their proper functions seems to be increasing; and every witness who professes to have seen or heard, or to otherwise have had a physical apprehension of an object, may well be doubted until the soundness of the sense employed has been established. By a few practical experiments from materials at hand these faculties of the witness may be tested so far as their correctness forms the basis of his evidence, and if they fail to undergo the test the evidence derived from them must fall.”<sup>1</sup>

This is the test that must be kept constantly in mind by those who investigate such stories as those which are constantly reported to *The Society for Psychical Research*. Interesting ghost stories have been found, again and again, to rest on nothing except weakness of sight, or hearing, or touch. Inquiries into railroad accidents have dragged along without placing the responsibility for the disasters, until the possibility that the switch-tender or the engineer, whose testimony seemed open to no one of the tests already explained, might be color-blind suggested itself to some one. A little experimentation soon showed that such was the case, and the disaster at once became the fault of an engineer who misunderstood the signal lights, or of a switchman who hung out the wrong lantern.

(d) *What is the Moral Character of the Witness? Is he Naturally Truthful?*—Another test under this subdivision is to examine the moral uprightness of the witness. Is he naturally veracious? Of unveracious witnesses “there are three classes: the innocent liar,

<sup>1</sup> *Forensic Oratory*, Robinson, § 229.

whose imaginations are so intimately mingled with his memories that he does not distinguish between the facts and fancies which occupy his mind, but believes and utters both alike as true ; the careless liar, whose love of the pathetic or marvelous, or whose desire to attract attention to himself, overcomes his weak allegiance to the truth, and leads him to weave facts and falsehoods together in his common conversation, to round out his narratives by the insertion of invented incidents, to give dramatic completeness to events by supplying with fiction whatever may be wanting in the circumstance itself ; the wilful liar, who for some definite purpose deliberately asserts what he knows to be untrue.”<sup>1</sup>

Evidently when objection is raised to testimony, not because there is anything wrong with the evidence itself, or with the conditions under which it is given, but solely on the ground that the witness belongs to one of the classes of liars just named, at best only strong doubt is thrown on the testimony in question. A student can say: “It seems very probable that this evidence is untrustworthy,” not “It is plainly not to be trusted.” Any one of these three kinds of men sometimes tells the truth, and the case in point may be one of these rare occasions. Therefore, it becomes necessary further to examine this suspicious evidence, to try to make some of the other tests applicable to it.

“The innocent, the imaginative liar is generally endowed with no remarkable acuteness, and, being honest in his intentions, readily follows wherever a kindly questioner may wish to lead him. Most of the facts concerning which he testifies made, at the time of their occurrence, no powerful impression

<sup>1</sup> *Forensic Oratory*, Robinson, § 240.

on his mind, and have not since been verified by personal examination or external authority. When he was called upon to state them, at the instance of the adverse party, the natural desire to serve a friend stimulated his imagination as well as his memory, and the story he related was the net result of fancy and recollection. The cross-examiner may take advantage of the same docility in order to exhibit his liability to self-deception. If circumstances which they know did not occur, but which are in keeping with the other parts of the transaction as narrated by him, are now suggested to him, his imagination is very likely to insert them into the picture which his memory preserves, and he will express his certainty of their existence with as much positiveness as that of any other matter to which he has testified. This process may be indefinitely repeated, until the jury see that he is willing to adopt and swear to any details which are not manifestly improbable, or until his contradiction of other witnesses, or of former portions of his own evidence, destroys their faith in his intelligence or honesty. An alternative, or sometimes an additional, mode of cross-examining this witness is to compel him to narrate the transaction piecemeal, beginning in the middle of its history and skipping from one portion to another, reversing or confusing its chronological order. Variations and omissions will probably result, which, if not significant enough to discredit the witness, can be so easily magnified by the suggestions of the cross-examiner as to make it evident to all beholders that the witness has no actual knowledge or convictions of his own, but simply reflects impressions created by his fancy from within, or by the promptings of his questioner from without. The exposure of the careless liar is a work of little difficulty. The cross-examiner needs but to apply the goad, and give him rein. The same qualities which mislead him in his statements in regard to one event operate on all the occurrences of life, and in his mouth 'a little one' always becomes 'a thousand,' and 'two roistering youths' develop into 'eleven men in buckram' and

‘three in Kendall green.’<sup>1</sup> Let fitting incidents, whose details are already accurately known, be but presented to him for description, and his palpable additions and exaggerations will complete his ruin.”<sup>2</sup>

Evidently the testimony of these two kinds of liars may, by skillful treatment, be brought under the decidedly final test of self-contradiction.

“The wilful liar, though probably a rare phenomenon, sometimes appears, and when he does appear generally eludes or baffles all the artifices of the cross-examiner.”<sup>3</sup> In handling the evidence of a man considered to be a wilful liar it is, therefore, best to remember that this class of persons is “always animated by a definite purpose.” The point is, then, to find out what the man’s motive is, and to what extent his will is under its control. This means, of course, that for the moment attention is directed to new evidence. Plainly, the effort is to bring the evidence under the test of personal prejudice, personal interest.

#### SUMMARY.

Thus far the following tests have been considered: three as to the statement itself, — it must not contradict well-established human experience, or the other well-established facts in the case, it must not contradict itself; two as to the conditions under which the testimony is

<sup>1</sup> Professor Robinson here refers to Falstaff’s story of the robbers who set upon him. It admirably illustrates the work of the careless liar. *King Henry IV*, Pt. I, Act II, Sc. 4.

<sup>2</sup> *Forensic Oratory*, Robinson, §§ 240, 241.

<sup>3</sup> *Idem*, § 241.

given, — the witness should not give evidence reluctantly, nor should he be forced in his testimony; four as to the witness, — he must be free from prejudice or personal interest, he must be intelligent, his senses must be reliable, he himself must stand in the community as an honest thinker and liver, who shuns the glosses of imagination.

### THREE KINDS OF EVIDENCE WHICH ARE IN THEMSELVES TRUSTWORTHY.

Even as the kinds of evidence just considered are from their very nature suspicious or untrustworthy, three other kinds from their very nature commend themselves to a reader or hearer. These are: (1) Undesigned Testimony, — what a writer or speaker gives inadvertently or incidentally, with no thought for its bearing on the point in discussion; (2) Negative Testimony, — “the failure of the witness to mention a fact so striking that he must have noticed it had it occurred”; and (3) Concessions, — the admission that something which makes against the writer’s or the speaker’s case is true.<sup>1</sup>

#### I. UNDESIGNED TESTIMONY.

An ardent philatelist is trying to demonstrate to some friend how widespread is the present interest in collecting stamps, and how eager the collectors are to gather specimens. He remembers the following from Henry Norman’s *The Far East*, and quotes it: “Whenever Macao desires a lift for its treasury it is able to secure it by abandoning one set of stamps and issuing another, when philatelists

<sup>1</sup> The divisions given in this paragraph follow roughly those of Professor Genung, *Outlines of Rhetoric*, p. 410.

from all over the world eagerly add it to their inflated collections. Our consul declares that he has 'endless applications from different countries for stamps of this colony.' " <sup>1</sup> Both the philatelist and his friend will feel the convincingness of this testimony, arising from the fact that it was originally given to illustrate, not anything about philately, but what makeshifts Macao uses to gather her revenue. This fact frees it from any suspicion of prejudice on the subject under discussion.

## 2. NEGATIVE TESTIMONY.

It is negative testimony on which a critic depends in the following extract from a review of a book purporting to be founded on the *Journals, Letters, and Conversations of the Princess Lamballe*, a confidential friend of Marie Antoinette:—

"What evidence have we, then, that we are here reading the *ipsissima verba* of Marie Antoinette's friend and confidante? In trying to answer this question one gets but little assistance from the Princess's more important biographers. Two full Lives are known to me . . . These two Lives are, the one by M. de Lescure, published in 1860, and the second by M. Bertin, published in 1888, of which the second edition, published in 1894, is before me. In neither, that I can trace, is there the slightest reference to the Memoirs now in question, though M. Bertin's book, more particularly, is a very careful piece of work. Mr. Austin Dobson, again, who is not only a finished poet, but the most accurate of men, never mentions them in his short monograph. All this silence is ominous." <sup>2</sup>

<sup>1</sup> *The Far East*, Henry Norman, p. 188. T. F. Unwin, 1895.

<sup>2</sup> *The Academy*, July 27, 1895, p. 66.

## 3. HURTFUL ADMISSIONS.

In the following extract from *The Mill Mystery*, by Anna Katherine Green, the evidence as to a date commends itself because it is an admission hurtful to the witness. Rhoda Colwell has been giving evidence which seems to show that Guy Pollard was the murderer of the Reverend Mr. Barrows :—

“ ‘Pardon me,’ her voice broke in again, ‘you have heard what I know.’ . . . ‘I hold you tight—so tight,’ she added, shaking her close-shut hand, ‘that I doubt if even your life could escape should I choose to remember in court what I have remembered before you two here to-day.’ . . .

“ ‘You are not going,’ were the words with which he [Guy Pollard] broke the almost intolerable suspense of the moment ; ‘at least, not till you have given us the date of this remarkable experience of yours.’

“ ‘The date?’ she repeated icily. ‘What day was it that Mr. Barrows was found in the vat?’ she inquired, turning to me with an indifferent look.

“ His hand fell on her arm like iron.

“ ‘You need not appeal to Miss Sterling,’ he remarked. ‘I am asking you this question, and I am not a man to be balked or frightened by you when my life itself is at stake. What night was it on which you saw me place Mr. Barrows in the vat? I command you to tell me, or—’ . . .

“ She chose to succumb, . . . and gasped out : ‘It was on a night in August—the seventeenth, I think. I wish you and your brother much joy of the acknowledgment.’

“ He did not answer, only dropped her arm, and, looking at me, remarked :

“ ‘I think that puts a different face upon the matter.’



"It did, indeed. For Mr. Barrows had only been dead four days, and to-day was the twenty-eighth of September."<sup>1</sup>

THE DEGREE OF CONVINCINGNESS OF THESE THREE KINDS  
OF EVIDENCE.

It would seem that the convincingness in themselves of these three kinds of evidence is somewhat different. What a man admits, much against his will, that is hurtful to his case may evidently be taken for truth. If, however, a student uses a bit of undesigned testimony, he must feel sure that the witness is veracious, that what he says is true. Comparison of the three illustrations just given will show that one witness giving negative testimony is not so convincing as one witness giving undesigned testimony or making a hurtful admission. A writer may be sure that his witness giving negative testimony is veracious, but it is even then perfectly possible that there may have been oversight. If only M. Lescure were cited in the second illustration given above, the negative testimony, though it would commend itself, would not be unquestionable. When, however, the critic shows that several biographers, and these of the best, fail to mention the "Memoirs," the negative testimony becomes practically convincing. Negative testimony, then, to be convincing in itself, should be given by several veracious witnesses. In other words, of these three kinds of evidence, although all three are self-commendatory, only hurtful admissions are convincing without the successful application of one of the other tests of evidence already considered.

<sup>1</sup> *The Mill Mystery*, A. K. Green, pp. 192-195. Knickerbocker Novels, G. P. Putnam's Sons.

## EXTERNAL AND INTERNAL TESTS.

Each of the tests of evidence considered thus far questions the sanity, the good faith, or the good judgment of the witness, sometimes more than one of these. These tests examine the evidence externally. They consider the man who gives the testimony, the conditions under which it was given, whether the evidence as a whole coincides with other testimony known to be true, whether it is self-contradictory; they do not say: "Is there anything faulty in the process of thought, the logic that has produced the opinion?" If they did, they would be not external, but internal tests. It may seem, off-hand, that there is one exception to this statement, — the test of self-contradiction. However, this does not analyze the logical process involved in the evidence, but simply, looking at the face of the statement, points out that an assertion made in one place is contradicted in another. Evidently the witness is untrustworthy. No question, however, is at the moment asked as to the process of thought by which he reached the statement. The external tests ask: "Is there good reason to think that the evidence, if internally examined, will be found to be logically unsound?" The internal tests ask rather: "Just what is the logical unsoundness of the argument?"

## FALLACIES AND THEIR DANGERS.

The examination of evidence for internal weaknesses is a search for fallacies. By a fallacy is meant "any unsound mode of arguing which appears to demand our conviction, and to be decisive of the question in hand,

when in fairness it is not.”<sup>1</sup> It is very necessary in argument to guard carefully against such unsound reasoning, for not only may an opponent intentionally try to mislead by unsound methods of reasoning, or—what is far more probable—may use them unawares, but any worker in Argumentation with the best of intentions may himself unconsciously slip into them. A fallacy is very often extremely hard to detect, for rarely is it self-evident. Generally it is imbedded in a mass of other entirely trustworthy material. It may be but part of a sentence in a volume of many pages, yet if it exists it is fatal to the ultimate convincingness of the argument. “As in a calculation, one single figure incorrectly stated will enable us to arrive at any result whatever, though every other figure, and the whole of the operations, be correct, so, a single false assumption in any process of reasoning, though every other be true, will enable us to draw what conclusion we please; and the greater the number of assumptions, the more likely it is that the false one will pass unnoticed.” The opponents of two recent books of wide circulation, Mr. Kidd’s *Social Evolution*, and Dr. Nordau’s *Degeneration*, insist, not so much that most of the conclusions in each book are wrong, as that each book rests for its force on a fundamental fallacy, which, if not noted, makes all the chapters drawn from it easy of acceptance. Evidently, then, it is important to know what are the chief kinds of fallacies, and how to recognize and avoid them.

<sup>1</sup> Quoted on p. 168 of *Elements of Logic*. Whately. Sheldon & Co., 1869.

## ATTEMPTED DIVISIONS OF FALLACIES.

In the past repeated attempts have been made to classify definitively the different kinds of fallacies, but experience has shown that a satisfactory hard and fast division of them has not yet been found. The divisions overlap, some of the fallacies falling into one or another class as the student looks at them from one or another point of view. The rough division used in the following pages, based on that of Dr. Whately,<sup>1</sup> is distinctly open to the objection just stated, but it is given in the hope that it may help the young student of Argumentation to recognize the fallacies most common in the work of college students and in current publications.

A CONCLUSION IS NOT NECESSARILY TRUE OR FALSE BECAUSE  
A PREMISE IS. A PREMISE IS NOT NECESSARILY TRUE  
OR FALSE BECAUSE A CONCLUSION IS.

In general, in considering evidence, a student should remember that it is always fallacious to assume that because one of the statements (premises) from which a man draws his conclusion is clearly false or true his conclusion is necessarily false or true, or to assume that because the conclusion is false or correct a premise is. Between a premise and its conclusion may lie so many opportunities for error that it is unsafe to assume anything about the truth or falsity of the one from the truth or falsity of the other. Only when examination has shown that a premise is correct, that a conclusion is the natural consequence from its premises, should statements be made about their

<sup>1</sup> *Elements of Logic*, pp. 190-250.

truth or falseness and their relations to one another. Much of the firm adherence of each religious sect to its particular ideas rests on its knowledge that though it holds different views from other sects it bases its conclusions on premises common to and admitted by all. Each sect assumes, however, that since a premise of its argument is correct the conclusion must be also. This fallacy underlies much charitable work. People have too often believed that because some charitable scheme was based on the unimpeachable premise, "We should aid the poor and needy in times of trial," their particular scheme, their conclusion from the premises, should be carried out. It is, however, no uncommon experience for a man to hold an absurd opinion which he has drawn from entirely correct premises, or a perfectly correct opinion drawn from absurd premises. That is, his argument is a *non sequitur*—the name applied to an argument whenever the conclusion does not logically follow from the two statements from which it is drawn. A writer should be content in such cases simply to point out that the conclusion does not follow from the premises or that a premise or the premises are incorrect. Doing this, he points out a fallacy in his opponent's work, renders it worthless, and avoids slipping, from excess of zeal, into one of the fallacies just mentioned.

What kinds of fallacies besides these will a careful student find in evidence? Certainly, the moment a reader begins to consider fallacies, the truth of what was said in Chapter II. as to the importance of definition in Argumentation is emphasized. A very large class of fallacies arises from an ignorant or a careless use of terms or phrases. The reader saw in Chapter II. that careful definition avoids the confusions, the argumentative errors,

intentional or unintentional, that may result from using words in themselves ambiguous, ignorantly, carelessly, or with unfair purpose. Whenever in an argument words or phrases occur which are ambiguous or are used in an incorrect sense, they will, if unexplained, produce confusion, intentional or unintentional, will lead to "unsound modes of reasoning" — in a word, to fallacies.

#### FALLACIES ARISING FROM LACK OF DEFINITION.

##### 1. *Words with Two Common Meanings left Undefined.* —

On page 61 the reader saw that the topic, "Was the treatment of the American Loyalists by the Whigs justifiable?" is liable to lead to much unsound reasoning. The question was meant to ask whether the treatment of the American Loyalists by the English Whigs was justifiable. A student might perfectly well try to prove the affirmative true on the ground that the treatment of some American Loyalists by a party of Whigs was justifiable, and his logic would be unassailable, except on the ground that his Whigs were the Americans in rebellion against Great Britain, not the English Whigs referred to in the question. Naturally the American Loyalists could hardly expect from the rebellious Americans against whom they had taken sides what they had a right to expect from the Whigs in England, who were aiding in putting down the Revolution. A fallacy is very liable, then, to result when an ambiguous term is left unexplained.

##### 2. *Using at Will Different Meanings of the Same Word.*

— Another form of this fallacy which arises from the use of an ambiguous word or phrase, is to employ the same word in different parts of an argument in two different

senses. For instance, a Harvard student arguing once on the topic of his choice, "Should Art Museums be open to the Public on Sunday?" wrote ten to a dozen pages of rather rambling matter, reducible to these statements: "The world consists of the cultivated few and a mob. A mob will generally destroy a work of art. Therefore the Museums should be opened only to the cultivated few. Consequently, since the cultivated few have leisure to attend Museums on week days, it is not necessary to open them on Sundays." Here the student used "mob" in the first sentence merely to signify the mass of the uneducated or partially educated, the majority of humanity; in the second he shifted the meaning to "a crowd of over-excited men whose passions have overcome their better judgments."

3. *Words used as Identical because they look Alike.*— Another student recently wrote a theme to prove that college men should vote the Democratic ticket. His six-page argument could be reduced to this: "It is a generally accepted principle in this country that he is the best citizen who is the most democratic. Now he who consistently holds to the principles of one of the two great national parties is a thorough Democrat. Therefore, all men should vote the Democratic ticket." Plainly the difficulty here is with democratic and Democrat. The adjective means broad-minded, liberal, ready to do one's part for the welfare of the State, and this the writer uses correctly. The noun is commonly used simply in opposition to Republican, to mean one who is a member of the Democratic party, who believes in its platform as formulated at its national convention. This meaning the writer ignores, treating Democrat as if it meant the same as

democratic. Here the student has not used just the same word in two different senses, but thinking because the two words looked alike they must mean the same thing, he has treated them as though they were identical in meaning. In our language with its two sources, Anglo-Saxon and Latin, such confidence in resemblances between words is ill-founded. Many look alike that come from entirely different sources and should carry entirely different ideas.

4. *Confusion of the Etymological and the Common Meanings of a Word.*— Still another form of the fallacy of ambiguity arises when a word is used without explanation that has both an everyday meaning and one, more rarely used, from its derivation. We often hear the saying, "The exception proves the rule," given as proof that the exception to the rule is what shows the rule to be correct—perfect nonsense. Here the speaker takes *proves* for our word *proves*, when in this case it is used in its strictly etymological meaning derived from the Latin *probo*, to test, and the meaning is, "The exception tests the rule."

5. *Unexplained Words used with Meanings which do not belong to them.*— Dr. Whately gives as an example of the fallacy just considered what seems even better to illustrate using words with meanings which do not belong to them. He considers the argument sometimes based on the often used word *representative*. "Assuming that its right meaning must correspond exactly with the strict sense of the verb 'represent,' the Sophist persuades the multitude that a member of the House of Commons is bound to be guided in all points by the opinion of his constituents: and, in short, to be merely their *spokesman*: whereas law, and custom, which in this case may be con-



sidered as fixing the meaning of the term, require no such thing, but enjoin a representative to act according to the best of his *own* judgment, and on his own responsibility.”<sup>1</sup> Plainly enough, in such cases as this, whether the incorrect use be intentional or unintentional, a careful definition of the word or phrase on which the argument turns will demonstrate the fallacious use made of the word.

### SUMMARY.

When a reader remembers that these ambiguities of phrase, these incorrect uses, are likely to occur not merely in the main thesis but in any one of the very many sentences that make up an argument, and that they constantly combine with other fallacies still to be mentioned, he must see how important it is that he should be on his guard against the fallacies arising from these sources. Let him remember that whenever he uses a word or phrase which may be ambiguous, he should define it; that whenever his opponent or even his ally uses one, he should insist on a definition of it; that he should never use words or phrases in senses which do not belong to them; that he should never allow an opponent or an ally to use words incorrectly. *Definition is either the prevention or the destruction of fallacies of this class.*

### THE FALLACY, BEGGING THE QUESTION, PETITIO PRINCIPII.

A second kind of fallacy, by no means uncommon in the work of beginners in Argumentation, is Begging the Question, *Petitio Principii*. In this fallacy a student, consciously or unconsciously, either (1) makes an un-

<sup>1</sup> *Elements of Logic*, Whately, p. 197.

supported assumption which is the same as or results from the conclusion he is to prove true, or (2) asserts unqualifiedly the truth of a premise which itself needs support.

1. *Assuming the Truth of an Unsupported Assumption which is Equivalent to the Conclusion or Results from it.*

In the argument between Thwackum and Square on "Can honor exist independent of religion?" Thwackum begs the question in the premise of his argument which defines honor. He says it means, "That which cannot exist independent of the tenets of the Church of England, *i.e.*, religion." Grant this premise, and you grant the whole case, for it is nothing but the desired conclusion in an expanded form. In a similar way the writer on the question, "Are the enjoyment and the cultivation of the Fine Arts essential to the highest type of civilization?" begs the question in his premise which defines his use of "civilization," — "The sum of the material and moral acquisitions of a race, these qualities being embodied in the Fine Arts." Grant this definition, and you grant the conclusion sought, for they are one and the same thing. Evidently, if there can be no civilization without Fine Art, it is clear that in the highest type of civilization the enjoyment and cultivation of the Fine Arts must be present.

The following illustrates begging the question by taking as a premise what is true only if the conclusion has already been granted to be correct. A reader of the book mentioned p. 239, which purports to be the "Memoirs" of the Princess Lamballe, argues that it is genuine because it records such and such facts, the reality of these facts

resting on the evidence of the "Memoirs" in question. Such argument is by no means uncommon when college students treat questions like these: "Was John the Author of the Fourth Gospel?" "Did Moses write the Pentateuch?"

These forms of *Petitio Principii* are often spoken of as arguing in a circle. A moment's thought will show that each of the illustrations of begging the question given thus far shows a complete circle in the argument.

## 2. *Undue Assumption of a Premise as True.*

### (a) *Stating without Support what should be proved True.*

— The simplest form of begging the question, by undue assumption of a premise, the forensic on the Beaconsfield topic, quoted pp. 182–185, illustrates. After showing that whatever may be considered the "Key to the East" should not be in hands hostile to England, the writer said triumphantly: "Lord Beaconsfield" (certainly a prejudiced witness) "said that Constantinople is the Key to the East," and then drew the conclusion: "Therefore it should not pass into the hands of Russia, a power hostile to England's interests." What at the moment demanded proof was that Constantinople is unquestionably the "Key to the East," and until the writer showed this, he made an undue assumption and "begged the question."

### (b) *Two Fallacies arising from an Attempt to find a Cause for an Effect.*

I. *Mistaking a Sign for a Cause.* — Two other forms of undue assumption of a premise, begging the question,

arise from attempts to find a cause for known results. The first form of this is to mistake a sign of the presence of the result in question for a cause of it. For instance, a large part of the present discussion about free silver rests on the idea that since there is usually much silver when there is wealth in a country, much silver is the cause of wealth. Really, it is not the silver that makes the wealth, but the wealth that demands much silver as a convenient medium of exchange.<sup>1</sup> Technically this fallacy has been known as *non causa pro causa*.

II. *Post hoc ergo propter hoc*. — Another very common form of undue assumption is to consider that, since two phenomena follow one another, one must be cause and the other effect. This is perhaps the commonest form of fallacy. It is a stock-in-trade of the demagogue. Pointing to desirable economic or political conditions which have just begun to appear, he names some legislative measure of his party some time precedent, and declares that the desirable results come from it. It is upon this fallacy that much of the success of patent medicines depends. A man has been unwell. He takes some much-advertised nostrum, and after a time he is better. He and the public declare that surely the medicine cured him. A college student, debating the question, "Is Civilization Harmful to the Indian?" developed this line of argument: "The Zuñis are the most civilized of the Indian tribes; the Zuñis are dying off fastest; therefore civilization is destructive to the Indian." Recently, one of the Boston daily papers gave considerable space to a discussion of the value of vivisection and the extent to which it is practiced in this country. At this time the

<sup>1</sup> *Elements of Logic*, Whately, p. 224.

following illustration of this fallacy appeared in one of its columns:—

“And that animals are systematically stolen for this purpose [vivisection] there is some ground for belief. In one day the advertising columns of a single daily paper had six advertisements of lost dogs. An Irish setter was lost from Dorchester; another Irish setter from Winthrop; a little fox terrier from Hingham; a large smooth-coated St. Bernard from Roxbury; a small Skye terrier from Watertown, and a brindle and white bull terrier from West Roxbury. Of course these advertisements could have represented but a proportion of the dogs ‘lost’ in and around Boston on that day.”

Many of our common superstitions rest on the fallacy that what happens after an event is probably caused by it. What child has not heard some one say, after a day of petty annoyances: “Well, what could I expect? I got out of bed on the wrong side this morning,” or, “It is always the way. After I started from home I went back three times for things I had forgotten. That always brings bad luck.” All these illustrations show what logicians have called the fallacy *Post hoc ergo propter hoc*.

*The Source of these Last Two Fallacies.*—In this fallacy and the closely allied form illustrated just before it, *Non causa pro causa*, thinkers fail to remember two ideas that should never be forgotten when a cause for a result is named: they must make sure (1) that there is some causal connection between the two; and (2) that the cause assigned is sufficient to produce the result named. Since they assume just what they should prove true, they really beg the question. These writers should have remembered, also: (1) that (a) because there seems to be some possible connection between two phenomena, it

does not necessarily exist, and (*b*) if there is some connection, it is not necessarily causal; (2) that it is very rare indeed that any phenomenon is the result of one cause only; and (3) that when many causes are at work, some may negative others, and the cause assigned for the result may not be at all the reason for it.

Certainly, it must be clear enough that because there seems to be a possible connection between two phenomena, it need not exist. The illustration from common superstitions given above shows this. That if a connection does exist between two phenomena it is not necessarily causal, the illustration in regard to *wealth* and *silver* proves, and so do the arguments from sign given on pp. 203, 210. It should need little illustration to prove that very few phenomena result from one cause. Battles have doubtless been won simply by the splendid fighting of the men on one side, but far more often several reasons have combined to produce the victory, — the superior strategy of one general, the better training of his men, the failure of ammunition among some of the opposing troops, etc. Were the intermingling, the complexity of causes less, we should not have so many different opinions as to historical events and their causes. In the case of the patent medicines, the nostrum may have done little or nothing toward the cure. If it was harmless, the medicines previously taken, but not given time enough before the nostrum was taken to produce their effects, may have worked the cure. The trouble may have been largely imaginary, and the faith of the patient in his nostrum may have effected the cure, aided a little by qualities of the nostrum like those of the medicines he had been taking. In the case of the lost dogs it is possible that the desire to sell dogs

to vivisectors caused some men to steal, but the carelessness of masters, the vagrant tendency of dogs, a half-dozen causes doubtless underlay the disappearances. Moreover, since the disappearance of the dogs went on at about the same rate, even when the papers were full of outcries against the vivisectors, it is possible that though that cause had been at work, fear for a time deterred the thieves from taking the dogs, while the other causes held good. That is, it is very possible that of the illustrations given in the newspaper not one resulted from the cause assigned. In the complexity of causes, then, at work to produce or to prevent a particular act, the cause fastened upon by an observer may have been counteracted and be really not a cause at all.

In considering the theories of historians, economists, politicians, a student should keep constantly in mind the complexity, the multiplicity of causes behind events, and be on his guard for the fallacy just considered. *When, then, causes for results are assigned, readers should be made to see that (1) there is a necessary connection between the result and the assigned causes, and that (2) the causes are by themselves sufficient to produce the result in question.* Unless this is done, evidently two matters that must be settled before discussion can be continued are left without proof.

(c) *Arguing from a False Assumption.* — A slightly different form of this fallacy is to base an argument on something not true, the fallacy of a false assumption. For instance, if some one trying to prove the skill of the Swiss with the bow in past times used the story of Tell and the apple as proof, he would fall into this fallacy, since this story of our childhood has been proved false.

A form this fallacy often takes in works of history, economics, and philosophy, is the following. Early in the book the writer makes a shrewd guess at past conditions, at probable causes, develops a theory that he says is possible. Later he refers to his guesses as facts, the possible theory as an established fact. A part of this fallacy is the use sometimes made by students of metaphors, similes, invented illustrations. These may, of course, be used to make clearer the meaning of a writer, but he should never use them as facts upon which he can base an argument. For instance, a student writing on the question "Is Weissmann's theory of Heredity sound?" proved that it is true by using numerous examples of acquired characteristics in parents transmitted to their offspring. When asked to state where he found these extremely valuable data, he said that he had concocted them, and that what he meant to say was: "If in children we should find a case like this, and that — and considering the remarkable cases we do see, why might not this happen? — then Weissmann's theory would be correct." Students of Argumentation should not forget that *though metaphors, similes, imaginary cases, are admirable in showing what a writer means, they should never be used as proof of the truth of anything.* If a student does use them as proof, he at once begs the important question, "Are what you take as facts really facts?" and falls into the fallacy here under discussion.

A common form of this fallacy is to offer an analogy between two cases as proof that the result found in the first case may be expected in the second. There are two possible dangers in this. In the first place, the analogy may be false, not real; in the second, as was pointed out



on p. 207, the Argument from Analogy is but a kind of simile, and until it is shown that the point of similarity is connected with the point in question, the so-called argument should not be used to prove anything true or false. Here is an attempt to use the Argument from Analogy as if in itself it had probative force:—

“The ground upon which Her Majesty’s Government justifies, or at least defends, the course of the Canadian vessels rests upon the fact that they are committing their acts of destruction on the high seas, viz., more than 3 marine miles from the shore line. It is doubtful whether Her Majesty’s Government would abide by this rule if the attempt were made to interfere with the pearl fisheries of Ceylon, which extend more than 20 miles from the shore line and have been enjoyed by England without molestation ever since their acquisition.”<sup>1</sup>

In this example Senator Morgan does not find a past case of seal-fishing from which to draw an argument, but points out in pearl-diving and catching seals a likeness, an analogy, in that both are called fishing. This is correct, but for the analogy to have any probative force, Senator Morgan must show some necessary connection between the mere existence of so-called fishing in both cases and his desired conclusion that both must have the same limitations. It is perfectly possible that the conditions of pearl-fishing differ sufficiently from those of seal-fishing to make it impossible to show this connection. In that case the analogy, though good, proves nothing true or false. *A good analogy at best, then, shows only resemblance, unless it can be proved to have some necessary connection with the result in question.*

<sup>1</sup> *Behring Sea Tribunal*, p. 52. Washington, D. C., 1893.

(d) *Referring to Ambiguous Evidence as if it could have but one Interpretation.* — Another phase of this fallacy, Begging the Question, is a favorite with careless writers, — that of broad references. Often a college student refers to some writer, to some chapter, paragraph or sentence, which certainly may be so interpreted as to support his ideas, but is equally open to other interpretations. Plainly, then, he leaves unsettled just the point for the moment most demanding decision, whether his interpretation or another is the more correct. Unless the passage referred to can have but one meaning, he should either not use it, or as he uses it, should show why his interpretation of it is preferable to any other.

#### SUMMARY.

A writer may, then, beg the question in any one of the following ways : (a) He may assume without support the truth of a statement equivalent to the conclusion, or possible only if that be granted ; (b) he may unduly assume the truth of a premise that needs examination (1) because it is not self-evident, (2) because the writer may have mistaken a sign for a cause, (3) because he may have mistaken for cause and effect two phenomena which are merely successive, (4) because it is false, (5) because it may have more than one interpretation. Against all of these forms of fallacy a student of Argumentation should guard by careful analysis to find the question that at the moment demands proof. Finding that, he will see at once whether the evidence begs the question.

## THE FALLACY, IGNORING THE QUESTION, IGNORATIO ELENCHI.

1. *Direct Ignoring of the Question.* — A third kind of fallacy that has several subdivisions is Ignoring the Question, *Ignoratio Elenchi*. In this a writer, either intentionally or by mistake, discusses not the real but an allied or entirely disconnected question. For instance, a recent topic for forensics at Harvard College read: "Was General Winslow's treatment of the Acadians justifiable?" A large number of students wrote careful arguments to prove that the English were justified in removing the Acadians from their homes. The question had been carefully worded to exclude discussion of this practically settled matter, and to suggest consideration of the justifiability of the details of Winslow's treatment of the Acadians when carrying out the general order for their removal. Another topic was, "Should Japan be given equal treaty rights with the great civilized nations?" Many students argued to prove that it would be best for civilization if Japan should win in the war.

2. *The Fallacious Use of the Argumentum ad Hominem.* — Another form of this fallacy is the improper use of the so-called *Argumentum ad Hominem*. This argument "is addressed to the peculiar circumstances, character, avowed opinions, or past conduct of the individual, and therefore has a reference to him only, and does not bear directly and absolutely on the real question."<sup>1</sup> That is, not the rightness or the wrongness of the issue is proved, but its rightness or wrongness for one individual, or those only among men whose circumstances, character, past conduct, or avowed opinions are like his. The fallacy comes in using

<sup>1</sup> *Elements of Logic*, Whately, p. 237.

this argument which can be convincing only for this small class of men as if it must be convincing for humanity in general. For instance, most of our appeals to friends to be consistent in their actions are *argumenta ad hominem*. A friend has, for example, turned away a beggar from his door, and we urge that he should have given in this case because we have never seen him refuse alms before, and have heard him say repeatedly that a man who has enough, as he admittedly has, should always be willing to spare a little to the needy. Another friend has often declared in our presence that our system of free public schools is the strength of the nation, and that every citizen should give it all possible support. When, however, his child reaches the age for entering the grammar school he sends it to a private school. We tax him with inconsistency, and use the *Argumentum ad Hominem*. It is by an *argumentum ad hominem* that the Signorina Nugent, in the last sentence but one of the following, gets the better of Mr. Martin: —

“She said nothing, but stood there, biting the rose.

“‘Give it to me,’ I said; ‘it shall be my badge of service.’

“‘You will serve me, then?’ said she.

“‘For what reward?’

“‘Why, the rose!’

“‘I should like the owner, too,’ I ventured to remark.

“‘The rose is prettier than the owner,’ she said; ‘and, at any rate, one thing at a time, Mr. Martin! Do you pay your servants all their wages in advance?’

“My practice was so much the contrary that I really could n’t deny the force of her reasoning.”<sup>1</sup>

<sup>1</sup> *A Man of Mark*, pp. 46, 47. Anthony Hope. H. Holt & Co., 1895.

In all these cases the *Argumentum ad Hominem* has been correctly used. If, however, the successful arguer in any one of the cases given should assume not that he has proved that his friend should give to all beggars, but that beggars should always be given aid; or, not that the friend should send his child to the public schools, but that all good citizens should send their children to the public schools; or, not that Martin should not expect a full reward till his service had been done, but that no one should expect a full reward till his service is done, — that is, if he attempts to make a universal application of an argument that has force only for a special case, — he thereby falls into the fallacy now under discussion. Evidently, doing this, he fails to see what is the work that he should do, — establish the general truth of the principle, not its applicability in a special case, — and so ignores the question.

3. *Shifting Ground*. — Another form of this fallacy is the very exasperating one, *Shifting Ground*. In this a writer, when pressed hard, shifts from the original thesis he started to support; and when pressed hard in his new position, shifts to still a third. Usually the different theses are so closely allied, so strongly resemble one another, that the shifting is not easily seen, and the writer may, by proving something true of one of his theses which he could by no means prove true of the original question, seem to establish the truth of the original thesis. Many of the chance arguments one hears on English composition as a prescribed part of a college course illustrate this fallacy. An English instructor is told: "Why force students to study English composition? You have a subject which cannot be taught. To write

well is a God-given power." When the instructor shows that the critic is here making no distinction between inborn literary genius that may express itself forcibly, though crudely, without training, and a training in correct usage, in force, clearness, and elegance, then the critic says, shifting his ground slightly: "But you know a student can just as well pick up style from contact with good books, by browsing in a fine library." When he is shown that such an opportunity is rare, and that there are serious objections to such a method, he answers: "I feel sure that method is the best, for some boys cannot learn to write well." When the instructor points out that, though this is true of a very small number, most boys can learn to write well, and that many, under the system of prescribed English, do become proficient who otherwise would not learn, the opponent answers: "Yes, that is, those who have the inborn power, though they were not aware of it." By this he triumphantly reverts to his original position, shifting his ground a third time. Clearly, such work as this ignores the real question for discussion, constantly substituting for it another topic very similar, but not the same.

4. *The Fallacy of Objections.* — Still another form of this fallacy is to raise objections of any kind to a plan, theory, or system, and then to infer that it must be rejected. When, however, objections are raised two important questions at once arise: (1) Are the objections raised essentially connected with the point in question? and (2) granted that in nearly all cases there must be both advantages and disadvantages, do the objections in this case outweigh the advantages? It is not, for instance, difficult to point out, in cases where the Argument from

Example is used, some differences between the two or more cases in question, but unless the cases differ in something that was an essential part of the process producing the result in question, the objection can have no force. For instance, to recur to the illustration of a football game, it would be easy to show that the teams opposed to each other in the old case on which the example is founded and those in the game under discussion are not the same; that the weather in which the game was played was different; that different kinds of costumes were worn, that there were different referees. Unless, however, it can be shown that in the game used as the basis of the example some one of these matters formed an essential part of the process, "tackling," the objections have no value.

There have been few plans and systems, even if the great legislative measures, great political acts, great humanitarian movements be included, to which valid objections could not be raised. There has, for instance, been much discussion as to the wisdom of the Fourteenth Amendment to the Constitution, which enfranchised the negro. It is not difficult to point out ways in which it works badly. No doubt in ante-bellum days men were right in saying that there were strong objections to the theories of the abolitionists. Harvard students, some years ago, in treating the topic "Should the Australian Ballot System be adopted in the United States?" succeeded in pointing out real objections to it. Those who argue fallaciously on the subjects just mentioned decide that because they have shown real objections to the Fourteenth Amendment, to Abolition, to the Australian Ballot System, therefore the plans should not be adopted. They

ignore the real question: "Do the valid objections outweigh the proved advantages?" Unless, then, an argument from objections can stand the two tests mentioned, it must fall.

5. *Proving Something True of a Part only, not of the Whole.* — Still another phase of the fallacy, Ignoring the Question, is proving something true of a part when it should be proved true of the whole. The topic just used, "Should the Australian Ballot System be adopted in the United States?" gave at Harvard instances of this fallacy. Many students, after considering advantages to be expected from it, and overcoming objections to it, decided that the system should be adopted. What interfered with the conclusiveness of their opinions was that each student wrote only of those political conditions which he knew best. The New Englander, the Ohioan, forgot that New England, the Middle States, the South, the Northwest, the Pacific Slope, all have different political problems which the system of balloting affects. After proving not that the differing needs in all these sections would be met better by the new than the old system, but that the section best known to them would be benefited, they stated their conclusion as holding good for the whole country. Their conclusion, if it was not to be fallacious, should have read, not "The system would be beneficial to the United States," but "The system would be beneficial to New England, or to the New England and the Middle States."

#### SUMMARY.

A reader must see that the improper use of the *Argumentum ad Hominem*; shifting ground; raising objections without considering whether they are connected with the



point in discussion, or, if connected, outweigh the advantages ; proving something true of a part when the whole should be considered, are all cases in which the arguer ignores the real question. Clearly, analysis will, by showing what the special issue is, lay bare these fallacies.

#### WHY A FURTHER SUB-DIVISION OF FALLACIES IS NOT NECESSARY HERE.

The three main possible sources of fallacy — ambiguous or incorrect uses of words ; begging the question, that is, assuming either the conclusion of the argument, or a premise that needs proof ; ignoring the question in hand and proving something else — should be carefully kept in mind by a student of Argumentation. Little by little he will recognize, in his work of sifting evidence, the sub-divisions of these three already explained. Very probably he will find others, but the special sub-division is so unimportant, if the main division to which it belongs is clearly recognized, that it has not seemed wise to do more here than show the most common aspects of the big divisions. Moreover, the divisions at best run into one another, and it is difficult to say that a fallacy belongs more to one class than to another. For instance, the man who argued against prescribed English composition (p. 261) not only shifted his ground but argued in a circle. Let a student remember that what has been said has been given, not for the purpose of helping him to classify definitively every fallacy he sees, but merely to help him to recognize unsound modes of reasoning. If he can place an argument in any one of the classes of fallacies, that should be enough for him, for this disposes of it. If, to use the ex-

ample of the critic of prescribed English composition, he recognizes first the shifting ground, let him throw out the argument as that kind of fallacy. If he sees first the circular argument, let him put aside the argument on that ground. Whether it is more one than the other need trouble logicians only.

#### ANALYSIS THE GREAT FOE OF FALLACY.

If fallacies were as directly and simply stated in all cases as, for the sake of clearness, they have been in the above illustrations, they would not be difficult to remove. As has been said, however, they hide themselves away in a mass of other matter that may be wholly true, and, thus imbedded, they are difficult to recognize. The simplest method of finding them is to cut the long argument down to its simplest proportions, to find just what its main thesis is, and on what subordinate theses that rests. That is what was done in nearly all the illustrations given from the work of college students. But what is this except analysis — “the exclusion of ideas for a central idea or ideas”? Analysis is, then, as has been said, the preventive or the destroyer of fallacies. Let a reader cut an argument down to its simplest proportions — that is, make a brief of it — and he will find very shortly whether the use of ambiguous words or incorrect meanings, begging or ignoring the question, is present — in a word, whether there is any fallacy in it. Surely the importance of analysis in Argumentation must again be clear.

THE USE OF EITHER EXTERNAL OR INTERNAL TESTS AT  
WILL.

A thoughtful reader of the pages on the tests of evidence has doubtless felt that in some cases the weakness of one of the illustrations could be shown by either one of the external or one of the internal tests. For instance, the assumption of a false premise (p. 255) might be recognized by the external test that a bit of evidence must agree with human experience in the known facts in the case. This is true, for these tests of evidence are not offered as wholly independent or as perfect means of classification. Their purpose is served if a student, through knowing that such tests exist, is able to recognize the errors in an argument. Whether he sees that in it a cause for an effect is given that should be proved to be a cause, or simply says that human experience or other facts in the case known to be true contradict, is of no consequence. The point is, that by some one of these aids he should recognize the error.

## SUMMARY OF THE TESTS OF EVIDENCE.

The tests, then, that may be applied to evidence are, roughly speaking, of two kinds: external and internal.

The external are: three as to the statement itself — it must not contradict well-established human experience or the other well-established facts in the case, it must not contradict itself; two as to the conditions under which the testimony is given — the witness should not give evidence reluctantly, nor should he be forced in his testimony; four as to the witness — he must be free from prejudice and personal interest, he must be intelligent,

his senses must be reliable, he himself must stand in the community as an honest thinker and liver, who shuns the glosses of imagination.

The internal tests are: there should be in the argument (1) no ambiguous or incorrect use of words; (2) no begging of the question, that is, no undue assumption of a conclusion or a premise; (3) no ignoring of the question. Finally, a student should not assume that because he has found that a premise of an opponent's argument is false or true, the conclusion necessarily is false or true; nor that because he has shown the conclusion of an argument is false or true, a premise is.

#### THE IMPORTANCE OF THE STUDY OF EVIDENCE.

A student cannot too carefully consider this great division of Argumentation, Evidence. It is fully as important as Analysis, and students master it much more slowly. At the beginning of Chapter II. the reader was told that to argue clearly three conditions are absolutely necessary: to know (1) What the question means; (2) What you believe and why; and (3) How you are to state your case so that it shall (*a*) convince, and (*b*) persuade. He who understands analysis can master the first division. When a student understands what evidence is, what kinds of evidence there are, and by what tests evidence may be judged good or bad, he will be able, when he has a case to treat, to decide what he believes about it and why, the second important step in all Argumentation. The work of the next division is to show how a student may best arrange his material so as to convince a reader.

## CHAPTER VI.

### THE FORENSIC ITSELF.

#### THE RELATION OF THE FORENSIC TO THE BRIEF.

**W**HEN a student understands Analysis and, in consequence, has carefully drawn up his brief of his subject; when he has decided what evidence he will use and why, he is certainly ready to write his argument, his forensic. This is really but an expansion of the brief itself. In it the introduction, the brief proper, and the conclusion of the brief are developed in literary form into the introduction, the argument itself, and the peroration. Just as the scaffolding precedes the building and aids in its construction, to disappear entirely when the building is completed, so the brief precedes the forensic, aids in its construction, and disappears when the work is completed. A skilled builder will know that a certain kind of scaffolding must have helped in the construction of a particular building; so, too, any skilled worker in Argumentation will see the neat structure underlying a well-constructed forensic. Just, however, as the builder cannot tell at once of what wood the scaffolding was made, so the student of Argumentation will not know just how the heads and subheads were phrased or marked. In other words, the brief underlying a forensic should be evident, not on its face, but only after careful scrutiny of the work. No letterings, headings, numberings, mark a good forensic — it is simply a written argument resulting from careful analysis that

has taken form in a good brief, careful selection of evidence, and literary skill that knows how, placing the carefully selected evidence at the places where the brief proper calls for it, to expand the brief into the complete argument. The forensic will be well constructed because its brief had unity,—that is, all its parts were made “subservient to one principal end”; clear, because its brief develops clearly, and its author knows how to write clearly; forcible, because the brief had climax and the writer has selected and handles his evidence well, and phrases his ideas with strength; elegant, if need be, because the writer has a graceful, flowing style. As far as conviction is concerned, then, if a student has mastered Analysis and the selection of Evidence, and, from previous study, understands the rules of Rhetoric well enough to have clearness, force, and elegance in the phrasing of his ideas, there are but few suggestions as to writing a forensic to be added to those given in the preceding chapter. These few will deal with effective methods of handling evidence. It is the fact that the work of almost every argument consists of something more than conviction, of persuasion as well, that makes this chapter really necessary. It is very important that before a student writes much argument he should understand the well-nigh inseparable union of conviction and persuasion in all strong Argumentation.

#### THE THREE DIVISIONS OF A FORENSIC.

As has been said, a forensic has three parts, corresponding to the three parts of the brief, though they are not, as in the brief, carefully designated by headings.

The introduction of the forensic corresponds to the introduction of the brief, the argument itself to the brief proper, the peroration to the conclusion. It will be convenient in considering the forensic itself to treat it under these divisions, for the work of each somewhat differs from that of the other two

#### THE INTRODUCTION. ITS WORK IN CONVICTION.

Following a division made early in this book (p. 1), it may be said that the work of the introduction is twofold: to appeal to the understanding — to convince ; and to appeal to the emotions — to persuade. Its work in conviction is exactly that of the brief introduction, to show clearly what the question in dispute is. In order to do this, it, like the brief, does as much of the following as may be necessary to make the meaning of the question perfectly clear. It may give the proposition, define terms, show the origin of the question, settle what facts are admitted by both sides, cut out extraneous matter, and state the special issue. In other words, it phrases only what both sides must admit to be true if there is to be any discussion. The final test of it is that it shall lead clearly to the argument itself, giving a reader just the information he needs to make the development of the argument itself clear. Some idea of the unsatisfactoriness of introductions which do not comply with these conditions is given in that part of Chapter III. which considers unsatisfactory brief introductions. The first eleven lines of the forensic on the Beaconsfield Ministry and the Eastern Question, (p. 182), and the following quotations, will make clear what inadequate brief introductions produce as introductions for forensics:

"DID HENRY CLAY ENTER INTO A CORRUPT BARGAIN IN  
1825?"

"Perhaps one of the most important events in the life of Henry Clay was the charge of entering into a corrupt bargain, brought forward after the presidential campaign of 1824. The impression made by this false accusation remained by him throughout the greater part of his life.

"Henry Clay may be taken as an example of an innocent man falsely accused of some grave charge. This is not an uncommon occurrence in this world, but it is something every one should try and avoid, because slander has wings like Mercury. There are so many people in the world who are ever ready to believe a calumny, though they have no proofs to substantiate the charge. It was so with Henry Clay. There were many of these same people who thought Clay was justly accused, before they had examined the case on one side or the other."

"A CONDEMNATION OF THE EPICUREAN THEORY OF LIFE.

"The epicurean theory of life makes man's aim the attainment of pleasure. The supporters of this theory maintain that man is born into the world to enjoy himself. His all-important purpose is to get the greatest possible pleasure. His wisest course is the shortest which shall lead to the accomplishment of that purpose. His motto is 'Man hath no thing better under the sun than to eat, to drink, and to be merry.'"<sup>1</sup>

The confusion of the introduction to the Beaconsfield forensic, the inadequacy of all these introductions, must be apparent. In none of them has preliminary analysis prepared a good brief introduction that showed just what the question in dispute is, and how much information a

<sup>1</sup> *Monthly Religious Magazine.*



reader must be given before he can properly comprehend a discussion of the point at issue. This is particularly true of the *Condemnation of the Epicurean Theory of Life*. In this a reader does not hear what has given rise to the discussion. He is, too, given a definition that begs the question, since those who uphold the Epicureans say that the view given is not the only possible interpretation of Epicureanism. He is left uncertain just what is the question for him to consider. No brief at all, or briefs with inadequate introductions preceded these three specimens. Compare these with the following, and the influence of a good brief introduction on the forensic will be clear: —

#### “ARE CONTINENTAL AREAS PERMANENT?”

“The question ‘Are continental areas permanent?’ is an important one, for upon its correct solution depends the result of many investigations of geologists into the past history of the organic and inorganic kingdoms of our earth. In fact its importance is proved by the attention directed to it by many eminent geologists. The result of their investigations has been in the main to lead them to the conclusion that continental areas are not permanent. Sir Charles Lyell, in his *Elements of Geology*,<sup>1</sup> published in 1872, states that it is not too much to say that every part of the land which we now term continental land has been under the sea, and all that which is now beneath the sea, even that in the greatest depths, has been continental land. This remark represents pretty well what the general idea was as to permanence of continents up to 1872. Since that date, however, a constantly increasing number of geologists have declared that in their opinion continents were permanent, although subject to constant modification of form. Such is

<sup>1</sup> A careful reference to the volume and page should be given here.

my belief, and the arguments I bring forward are to sustain this belief."

### THREE KINDS OF POOR INTRODUCTIONS DEVELOPED FROM GOOD BRIEFS.

All that can prevent a good brief introduction from developing into a forensic introduction, good as far as conviction is concerned, is laziness, or inability in the writer to phrase his ideas clearly and forcibly. It is very rare that a student who can plan his brief introduction well cannot phrase it clearly and forcibly in a developed form, but there are frequent cases among college students in which laziness, or a lack of feeling for elegance, makes poor a forensic introduction resting on a good brief. Sometimes a student who has carefully stated details in the brief introduction does not repeat them in beginning his forensic, but refers to his exposition of them in the brief. Forensic introductions are at times but a mere repetition of the brief introduction, with all the bareness of phrasing, and even the letters and the numerals. Or, the brief introduction, cleared of its numerals and letterings, is restated in so slightly developed a form that none of the rigidity and bareness of the brief is lost. *A writer should always remember that the brief and the forensic are to be regarded as distinct bits of work ; that neither should in any way refer to the other, and that in passing from the brief to the forensic he is expected to give finish by his literary skill to what was but an outline in the brief.*

### SHOULD THE CONCLUSION BE STATED IN THE INTRODUCTION?

At the end of an introduction the question arises : Is it best to state, before beginning my proof, the exact

conclusion which I desire to prove true or false, or simply to state here what is the question, without committing myself as to my views of it? When it can in no way prejudice the writer's chances to give the conclusion to be reached, it is best to state it. Readers of Plato's dialogues will remember, however, that Socrates very often held back his real conclusion until he had forced his antagonist to grant the truth of proposition after proposition, each leading one step nearer the conclusion Socrates desired to prove, but had nowhere stated. When a writer knows that the view he favors is unpopular, or, if new, is likely to cause hostility, he will do better to reserve his statement of it until, by the strength of his proof, he has at least somewhat weakened the fierceness of the opposition.

Not only the nature of the subject, but the circumstances of the case, may make it unwise to state at the beginning the thesis to be established. Some years ago, at a great dinner in Boston at which many rich and liberal men were present, a minister was called upon to speak. All the speeches thus far had been entertaining, with no special purpose in view. This man wished to make sure, before he sat down, of a large contribution for a Boston charity. He announced his serious intention at once. He made a by no means uninteresting speech, but was listened to silently. At the end there was no response to his appeal for aid. The audience, which had gathered it supposed merely for amusement, felt tricked in expecting this attack on their purses when they were obliged to listen. The speaker's frank statement of his purpose filled them too much for his arguments to stir them. Had he spoken at first lightly and entertainingly ;

then slipped skillfully into more serious matters; and, by well-told anecdotes and strong appeals, roused their sympathies in the object of his interest, he might then have closed with his appeal for aid, with a strong probability of far different results.

The nature of the subject and the circumstances under which the argument is to be heard must determine, then, whether it is best to state frankly at the end of the introduction just what is to be proved true or false.

#### THE USE OF AN OUTLINE IN THE INTRODUCTION.

Ordinarily, the introduction to a forensic gives, in conviction, only what the question is, what it means; but there is one case in which it may state, in addition, even what is the work to be done. When it is clear that the development of a subject, because of technicality or length, will be hard to follow, it is sometimes wise to give at the end of the introduction a rapid outline of the treatment planned for the case. Such an outline is a kind of plan of the country to be traversed that will make the way clearer as the reader goes over it. If, however, for one of the reasons pointed out in the preceding paragraph, such an outline seems likely to be prejudicial to the interests of the writer, it should, of course, be omitted.

#### THE EXTENT TO WHICH ELEGANCE SHOULD BE SOUGHT IN AN INTRODUCTION.

Such rudimentary elegance as this rule requires any writer should strive for, but it is to be noted that though clearness and force are always to be desired in forensic

work, elegance, except to the degree just explained, is not always indispensable, and may even take from the force of the phrasing. He who is writing an address to be delivered to a set of half-educated men, to some Indians at a mission chapel, or to an audience of agents and Indian braves ; he who is to speak to a body of college students, or a dinner-party celebrating some historical occasion, must both be clear and forcible. Certainly, however, though the second should strive to be not only clear and forcible but also elegant, the first, in an effort for elegance, may sacrifice force, for that which will most effectively convey his meaning to his auditors may be phrases not sanctioned by any book on rhetoric. It is not improbable, too, that elegance of speech in such a case may irritate the hearers, and hence not only spoil the force of the speaker but weaken his persuasive effect. Elegance in introductions, then, unlike clearness and force, varies in its desirability, and only study of the circumstances of the particular case can determine the need of it. Indeed, as the last sentence but one hinted, study of the extent to which elegance should be used takes us into the study of the methods of persuasion.

#### UNFAIRLY PREJUDICIAL INTRODUCTIONS.

When briefs were under discussion students were warned against prejudiced introductions, which state as true something demanding discussion. Sometimes in developing a brief introduction into the beginning of a forensic a student lets the prejudice creep in that was not in his brief. He should be steadily on the watch for this fault. Here is what a prejudiced brief introduction, or careless-

ness in developing an unprejudiced brief into a forensic, will produce:—

“WAS CLEMENT XIV. JUSTIFIED IN SUPPRESSING THE JESUITS  
IN 1773?”

“In order that we may have clearly in mind the subject in hand, let us consider in outline the history of the Jesuits from their organization by Ignatius Loyola in 1540 to their suppression by Pope Clement XIV. in 1773. From almost the day of their organization they increased in numbers and influence with astonishing rapidity. In 1549 they were ten (10) in number, while in 1762 they numbered twenty-two thousand (22,000); and their gain in influence is even more remarkable. By clever strategy they gained control of the educational system of continental Europe, filled most of the offices in the Inquisition, became the confessors and confidential advisers of kings, and were the most eloquent and influential pulpit orators. Very large numbers of Jesuits went as missionaries to India, China, North and South America, and the islands of the sea, and their labors were rewarded with immense numbers of converts (many of whom, however, returned to paganism later). In Europe the Jesuits were most prominently identified with the political events of their times. Hundreds of charges have been brought against them. They are accused of complicity in the various attempts on Elizabeth's life, the Gunpowder Plot, the murder of William of Orange, and the Massacre of St. Bartholomew's Day, and of causing the Thirty Years' War and the French Revolution. As the natural result of such charges, not satisfactorily explained away, they came into extreme unpopularity and disfavor, which led to their expulsion from Portugal in 1753, from France in 1764, and their suppression by Clement XIV. in 1773.”

It is clear that the whole effect of this is prejudicial against the Jesuits, and that he who passes unquestion-

ingly the phrases "by clever strategy," "many of whom returned to paganism later," "such charges, not satisfactorily explained," is well on his way to grant the writer's conclusion that Clement XIV. was justified in suppressing the Jesuit order.

#### SUMMARY.

The work in conviction, then, of a forensic introduction is to develop, always with as much clearness and force as possible, and with degrees of elegance varying according to circumstances, the outline of the well-planned brief introduction.

#### PERSUASION IN AN INTRODUCTION.

There are, however, conditions of Argumentation in which it is extremely helpful, or even indispensable, to use something besides the method of conviction. An introduction to a forensic may, and generally should, do more than merely appeal to the reason,—endeavor to convince; it may appeal to the emotions,—endeavor to persuade. If a writer or speaker knows that his subject is necessarily technical and difficult to grasp; that it is for any reason—for instance, because of the mass of detail that must be treated in it—likely to be somewhat dull; that he is unknown to his audience, or new to the conditions under which he speaks; or if he fears that his audience is already hostile, or likely to be made so by his words, it will evidently be very helpful in all these cases, indispensable, perhaps, in the last, in some way to win at the outset the sympathy of the audience for him or his subject. If this is not done, a reader or hearer may, because of dullness in the subject, hostility to the writer

or speaker, or one of the other reasons mentioned, put aside the article, or leave the room, before the thesis is well stated. A speaker or writer may also, though not for any of the reasons given above, wish at times to impress on his audience his own fitness for his work, or the unfitness of his opponent. The first place for any such amplifying of his own powers, and diminishing of the value of his opponent's abilities is, of course, in the introduction.

#### AN INTRODUCTION TO A TECHNICAL SUBJECT.

The introduction to the first of Professor Huxley's *Three Lectures on Evolution* illustrates the value of persuasion when a speaker feels that he has a subject that may be dull because of the detail and technicality necessary in treating it. Professor Huxley first pointed out the significance for every man of the problems to be considered, and made each of his hearers recognize that in language far from technical he had at times considered the very problem to be discussed at the lecture. At once each hearer gained a personal interest in the discussion. It could hardly be dull for him as he gradually saw the bearing, the significance of the details, not for a mere scientific problem, but for a question that had often puzzled him, and which he could feel sure was, in the nature of things, if not settled, likely to recur and bother him.

"We live in and form part of a system of things of immense diversity and complexity, which we call Nature; and it is a matter of the deepest interest to all of us that we should form just conceptions of the constitution of that system and of its past history. With relation to this universe, man is, in extent, little more than a mathematical point; in duration but a fleet-



ing shadow ; he is a mere reed shaken in the winds of force. But, as Pascal long ago remarked, although a mere reed, he is a thinking reed ; and in virtue of that wonderful capacity of thought, he has the power of framing for himself a symbolic conception of the universe, which, although doubtless highly imperfect and inadequate as a picture of the great whole, is yet sufficient to serve him as a chart for the guidance of his practical affairs. It has taken long ages of toilsome and often fruitless labor to enable man to look steadily at the shifting scenes of the phantasmagoria of Nature, to notice what is fixed among her fluctuations, and what is regular among her apparent irregularities ; and it is only comparatively lately, within the last few centuries, that the conception of a universal order and of a definite course of things, which we term the course of Nature, has emerged. But, once originated, the conception of the constancy of the order of Nature has become the dominant idea of modern thought. To any person who is familiar with the facts upon which that conception is based, and is competent to estimate their significance, it has ceased to be conceivable that chance should have any place in the universe, or that events should depend upon any but the natural sequence of cause and effect. We have come to look upon the present as the child of the past and as the parent of the future ; and, as we have excluded chance from a place in the universe, so we ignore, even as a possibility, the notion of any interference with the order of Nature. Whatever may be men's speculative doctrines, it is quite certain that every intelligent person guides his life and risks his fortune upon the belief that the order of Nature is constant, and that the chain of natural causation is never broken.

“In fact, no belief which we entertain has so complete a logical basis as that to which I have just referred. It tacitly underlies every process of reasoning ; it is the foundation of every act of the will. It is based upon the broadest induction, and it is verified by the most constant, regular, and universal of

deductive processes. But we must recollect that any human belief, however broad its basis, however defensible it may seem, is, after all, only a probable belief, and that our widest and safest generalizations are simply statements of the highest degree of probability. Though we are quite clear about the constancy of the order of Nature, at the present time, and in the present state of things, it by no means necessarily follows that we are justified in expanding this generalization into the infinite past, and in denying, absolutely, that there may have been a time when Nature did not follow a fixed order, when the relations of cause and effect were not definite, and when extra-natural agencies interfered with the general course of Nature. Cautious men will allow that a universe so different from that which we know may have existed; just as a very candid thinker may admit that a world in which two and two do not make four, and in which two straight lines do enclose a space, may exist. But the same caution which forces the admission of such possibilities demands a great deal of evidence before it recognizes them to be anything more substantial. And when it is asserted that, so many thousand years ago, events occurred in a manner utterly foreign to and inconsistent with the existing laws of Nature, men who, without being particularly cautious, are simply honest thinkers, unwilling to deceive themselves or delude others, ask for trustworthy evidence of the fact.

“Did things so happen, or did they not? This is a historical question, and one the answer to which must be sought in the same way as the solution of any other historical problem.”<sup>1</sup>

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 60-63.

## AN INTRODUCTION WHEN THE SPEAKER IS UNKNOWN.

The well-known opening lines of the verses so often recited by school-boys,

“ You 'd scarce expect one of my age  
To speak in public on the stage,”

recognize the value, when a speaker is unknown to an audience, of winning their sympathy at the outset. The following extract is from a speech written by Lysias for an Athenian to deliver in behalf of his Theban friend, Pherenicus. It shows an effort to win sympathy because the speaker is not a well-known pleader in the courts.

“ I think, judges, I must first tell you of my friendship with Pherenicus, lest some of you should wonder why I, who have never been any man's advocate before, am his now. His father, Cephisodotus, was my friend, judges ; and when we were exiles at Thebes I stayed with him — I, and any other Athenian who would ; and many were the good offices, public and private, that we received from him before we came home. Well, when he and his son had the like fortune, and came to Athens banished men, I thought that I owed them the fullest recompense, and made them so thoroughly at home in my house that no one coming in could have told, unless he knew before, whether it belonged to them or to me. Pherenicus knows, as well as other people, judges, that there are plenty of better speakers than I, and better experts in affairs of this kind ; but still he thinks that my close friendship is the best thing he can trust to. So, when he appeals to me and asks me to give him my honest help, I think it would be a shame to let him be deprived, if I can help it, of what Androcleides gave him.”<sup>1</sup>

It would be hard for any fair-minded audience to refuse its sympathy to the modesty and the “ stanch friendship”

<sup>1</sup> *Attic Orators*, R. C. Jebb, vol. II, pp. 279, 280. Macmillan & Co., 1893.

of this speaker. That such a man thought Phœnicus worthy of so strong a friendship might even predispose the audience in favor of his client. The following opening of a speech of Abraham Lincoln, delivered in Columbus, Ohio, shows an effort to win sympathy because the speaker was not well known to his audience :—

“FELLOW-CITIZENS OF THE STATE OF OHIO: I cannot fail to remember that I appear for the first time before an audience in this now great State,—an audience that is accustomed to hear such speakers as Corwin, and Chase, and Wade, and many other renowned men; and remembering this, I feel that it will be well for you, as for me, that you should not raise your expectations to that standard to which you would have been justified in raising them had one of these distinguished men appeared before you. You would perhaps be only preparing a disappointment for yourselves, and, as a consequence of your disappointment, mortification for me. I hope, therefore, that you will commence with very moderate expectations; and perhaps, if you will give me your attention, I shall be able to interest you in a moderate degree.”<sup>1</sup>

#### AN INTRODUCTION WHEN THE AUDIENCE MAY BECOME HOSTILE.

The value of winning sympathy at the outset when a speaker or writer fears that later he may arouse by his words the hostility of his audience is shown by the opening paragraph of the “First Letter of Junius.” An unknown person is to say very startling words about those high in authority, is to make statements that will by their audacity so shock some of his readers that they

<sup>1</sup> *Abraham Lincoln, Complete Works*, vol. I, p. 538. Nicolay & Hay. Century Co., 1894.

are liable, though agreeing that wrong exists, to draw back. It is important, then, for the writer to find some common ground at the outset upon which he and most of his readers can agree. Then, later, when men are disposed to draw back because of the daring of his criticism, they will see that his censures are but the logical outcome of the statements they agreed to at the beginning of the letter, and will be less likely to revolt. Junius, as the following will show, first puts before his readers a general proposition which they will readily accept; then, with a sudden turn, makes a special application of it, and throughout his letter simply adds detail to detail of his special case.

"SIR: The submission of a free people to the executive authority of government is no more than a compliance with laws which they themselves have enacted. While the national honor is firmly maintained abroad, and while justice is impartially administered at home, the obedience of the subject will be voluntary, cheerful, and I might say, almost unlimited. A generous nation is grateful even for the preservation of its rights, and willingly extends the respect due to the office of a good prince into an affection for his person. Loyalty, in the heart and understanding of an Englishman, is a rational attachment to the guardian of the laws. Prejudices and passion have sometimes carried it to a criminal length; and whatever foreigners may imagine, we know that Englishmen have erred as much in a mistaken zeal for particular persons and families, as they ever did in defense of what they thought most dear and interesting to themselves.

"It naturally fills us with resentment to see such a temper insulted and abused. In reading the history of a free people whose rights have been invaded, we are interested in their cause. Our own feelings tell us how long they ought to have

submitted, and at what moment it would have been treachery to themselves not to have resisted. How much warmer will be our resentment if experience should bring the fatal example home to ourselves !

“The situation of this country is alarming enough to rouse the attention of every man who pretends to a concern for the public welfare.”<sup>1</sup>

#### AN INTRODUCTION WHEN THE AUDIENCE IS HOSTILE.

Without persuasion Henry Ward Beecher could never have won a hearing for the argumentative part of his speech in Liverpool, in 1863, in behalf of the Northern States. These were the conditions under which he spoke :—

“When Mr. Beecher went to England in 1863, English friends of the North urged him to speak publicly for Northern interests. They felt that as champions of the North they had been treated with contempt and vilification, and that unless he, as a prominent Abolitionist, should recognize their efforts, they were lost. . . . Liverpool was the headquarters of the Southern sympathizers, and a great many Southern men were in the city. The feeling was very strong that if Mr. Beecher should succeed there, he would win the day; and a determined and desperate effort was to be made to prevent the delivery of the speech. The streets were placarded with abusive and scurrilous posters, urging Englishmen to ‘see that he gets the welcome he deserves.’ On the morning of the 16th the leading papers came out with violent and false editorials against Mr. Beecher. It was openly declared that if he should dare to address the meeting, he would never leave the hall alive. It was well known that the mob was armed; not so well known

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 42-44.

that a small armed band of young men were in a commanding position at the right of the stage, determined, if any outbreak occurred, to protect Mr. Beecher.

"The great hall was packed to the crushing point. For some moments before the time fixed for the commencement of the proceedings there were cat-calls, groans, cheers, and hisses, and it was evident that a strong force of the pro-Southern (or at least of the anti-Beecher) party had congregated in front of the gallery and at the lower end of the body of the hall. . . . Mr. Beecher was evidently prepared for some opposition; but he could hardly have expected that his appearance at the front of the platform would rouse one portion of the audience to a high state of enthusiasm, and cause the other portion to approach almost a state of frenzy. For some time it was doubtful whether he would be allowed to speak; but those who sat near him and observed his firmly compressed lips and imperturbable demeanor, saw at once that it would require something more than noise and spasmodic hisses to cause Mr. Beecher to lose heart. He stood calmly at the edge of the platform, waiting for the noise to cease. At last there was a lull, and the chairman made an appeal to the meeting for fair play. His assurance that Mr. Beecher, after his speech, would answer any questions which any one might care to ask was not very favorably received, and a series of disturbances followed. When the scuffling had partly subsided, the chairman expressed his determination to preserve order by calling in, if necessary, the aid of the police. This announcement produced something like order, and Mr. Beecher took up the advantage and began his address."<sup>1</sup>

In some way Beecher must show himself worthy of the sympathy of the part of the audience favoring him, must increase its interest to enthusiasm, and must shame or

<sup>1</sup> *Biography of H. W. Beecher*, by W. C. Beecher and Rev. S. Scoville.

startle the hostile portion into attention. Here is what Beecher said : —

“For more than twenty-five years I have been made perfectly familiar with popular assemblies in all parts of my country except the extreme South. There has not for the whole of that time been a single day of my life when it would have been safe for me to go south of Mason and Dixon’s line in my own country, and all for one reason: my solemn, earnest, persistent testimony against that which I consider to be the most atrocious thing under the sun — the system of American slavery in a great free republic. [Cheers.] I have passed through that early period when right of free speech was denied to me. Again and again I have attempted to address audiences that, for no other crime than that of free speech, visited me with all manner of contumelious epithets; and now since I have been in England, although I have met with greater kindness and courtesy on the part of most than I deserved, yet, on the other hand, I perceive that the Southern influence prevails to some extent in England. [Applause and uproar.] It is my old acquaintance; I understand it perfectly — [laughter] — and I have always held it to be an unfailing truth that where a man had a cause that would bear examination he was perfectly willing to have it spoken about. [Applause.] And when in Manchester I saw those huge placards: ‘Who is Henry Ward Beecher?’ — [laughter, cries of “Quite right,” and applause] — and when in Liverpool I was told that there were those blood-red placards, purporting to say what Henry Ward Beecher had said, and calling upon Englishmen to suppress free speech — I tell you what I thought. I thought simply this: ‘I am glad of it.’ [Laughter.] Why? Because if they had felt perfectly secure, that *you* are the minions of the South and the slaves of slavery, they would have been perfectly still. [Applause and uproar.] And, therefore, when I saw so much nervous apprehension that, if I were permitted



to speak — [hisses and applause] — when I found they were afraid to have me speak — [hisses, laughter, and “No, no!”] — when I found that they considered my speaking damaging to their cause — [applause] — when I found that they appealed from facts and reasonings to mob law — [applause and uproar] — I said, no man need tell me what the heart and secret council of these men are. They tremble and are afraid. [Applause, laughter, hisses, “No, no!” and a voice: “New York mob.”] Now, personally, it is a matter of very little consequence to me whether I speak here to-night or not. [Laughter and cheers.] But, one thing is very certain, if you do permit me to speak here to-night you will hear very plain talking. [Applause and hisses.] You will not find a man — [interruption] — you will not find me to be a man that dared to speak about Great Britain three thousand miles off, and then is afraid to speak to Great Britain when he stands on her shores. [Immense applause and hisses.] And if I do not mistake the tone and temper of Englishmen, they had rather have a man who opposes them in a manly way — [applause from all parts of the hall] — than a sneak that agrees with them in an unmanly way. [Applause and “Bravo!”] Now, if I can carry you with me by sound convictions, I shall be immensely glad — [applause]; but if I cannot carry you with me by facts and sound arguments, I do not wish you to go with me at all; and all that I ask is simply FAIR PLAY. [Applause, and a voice: “You shall have it, too.”]

“Those of you who are kind enough to wish to favor my speaking, — and you will observe that my voice is slightly husky, from having spoken almost every night in succession for some time past, — those who wish to hear me will do me the kindness simply to sit still, and to keep still; and I and my friends the Secessionists will make all the noise. [Laughter.]”<sup>1</sup>

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 156–158.

In this case, then, in which the unpopularity of the speaker and his cause with a large part of the audience was so great as to endanger his life, Mr. Beecher won a hearing for his argument chiefly by showing that he was undaunted, determined, sincere, — three qualities sure to win sympathy from a British audience. Resting on the proof his very words gave of his possession of these qualities, he appealed to his audience to grant him only what any Britisher is supposed to be willing to grant any man, — “fair play.” While leading up to this appeal, Beecher managed very skillfully to render the conduct of those who opposed him, or who should interrupt his speech, prejudicial to their cause. Lastly, the imperturbability of his manner, the easy good-nature of his remark that “I and my friends the Secessionists will make all the noise,” won respect and sympathy. As a result of this masterly persuasive effort Beecher was able to develop the purely convincing part of his introduction and the earlier part of his argument without serious interruption.

#### AMPLIFYING ONE'S OWN FITNESS FOR THE WORK IN HAND.

In the following extract from the opening of Dryden's *Defence of an Essay of Dramatic Poesy*, the poet, by ironic praise and mock self-depreciation, succeeds in making a reader feel the probable incompetence of his opponent and his own fitness for the work criticised — purely persuasive work:—

“But while I was thus employed about this impression, there came to my hands a new printed play, called *The Great Favourite, or The Duke of Lerma*; the author of which, a noble and

most ingenious person, has done me the favour to make some observations and animadversions upon my *Dramatique Essay*. I must confess he might have better consulted his reputation, than by matching himself with so weak an adversary. But if his honour be diminished in the choice of his antagonist, it is sufficiently recompensed in the election of his cause: which being the weaker, in all appearance, as combating the received opinions of the best ancient and modern authors, will add to his glory, if he overcome, and to the opinion of his generosity, if he be vanquished: since he engages at so great odds, and, so like a cavalier, undertakes the protection of the weaker party. I have only to fear on my own behalf, that so good a cause as mine may not suffer by my ill management, or weak defence; yet I cannot in honour but take the glove, when 't is offered me: though I am only a champion by succession; and no more able to defend the right of Aristotle and Horace, than an infant Dimock to maintain the title of a King.

“For my own concernment in the controversie, it is so small, that I can easily be contented to be driven from a few notions of Dramatique Poesie; especially by one, who has the reputation of understanding all things: and I might justly make that excuse for my yielding to him, which the Philosopher made to the Emperor, — *why should I offer to contend with him, who is master of more than twenty legions of arts and sciences?* But I am forced to fight, and therefore it will be no shame to be overcome.”<sup>1</sup>

#### THE DIFFERENCE BETWEEN FAIR AND UNFAIR PREJUDICE.

This last quotation, particularly, suggests<sup>1</sup> that there may seem to be a contradiction between the rule given on 277, as to prejudiced introductions, and what has just been

<sup>1</sup> *A Defence of an Essay of Dramatic Poesy*, Dryden, pp. 101, 102, Clarendon Press, 1889.

said as to the desirability of winning sympathy for one's self, of creating a prejudice in one's favor, at the beginning of a speech or article. Really, however, there is no contradiction, for the reader was in the first case warned only not to make statements as undisputed which are open to debate, not to refer to matters as true which may not be true; that is, he was told not to be unfairly prejudiced. In what has been said of persuasive introductions he is not advised to make assertions that need support, but to find in undebatable matters suggested by the work in hand what will prejudice an audience in his favor or against his opponent. It will be seen that in none of the cited introductions is any debatable matter used to gain the prejudicial effect. The difference between the two kinds of work is that between creating an unfair and a fair prejudice.

#### THE RELATIVE PROPORTIONS OF CONVICTION AND PERSUASION IN AN INTRODUCTION.

An introduction may, then, depend for its force on conviction or on persuasion. The proportions in which the two mingle must, like the number of the possible parts of analysis represented in an introduction, depend on the nature of the subject. The proportions may range from introductions wholly without persuasion, through those that have but little, to those in which conviction and persuasion mingle as subtly as in the introduction to the *Defence of Lord George Gordon*, by Lord Erskine.<sup>1</sup> Examination of the introductions cited will show that the amount of persuasion in an introduction depends wholly

<sup>1</sup> *Specimens of Argumentation* (Modern), p. 86.

upon the circumstances under which the speech is made. To decide to what extent and how to be persuasive are matters requiring a knowledge of the emotional side of human nature, — of what produces action in man. These subjects, by no means easy to grasp, are to be treated in the next chapter, under the heading *Persuasion* — that which aims not merely to convince a man, but also to produce in him action as a result of his conviction. It is enough for the present that a student should realize that in most good argumentation the introduction has as much work to do in persuasion as in conviction.

#### THE ARGUMENT ITSELF.

Like the Introduction, the Argument itself may do a twofold work. It may simply convince by giving in a literary form the evidence for which the carefully constructed brief proper calls, or it may appeal to the emotions, — persuade. When it does the latter, it finds in the different proofs offered that which will stir a reader or hearer against the opponent or his thesis or in behalf of the arguer or his ideas. The great essentials in the argument proper are, both from the argumentative and from the literary point of view, unity, clearness, and force. Whether elegance is desirable will, as was pointed out on p. 276, depend on the nature of the public addressed.

#### UNITY, CLEARNESS, AND FORCE IN THE ARGUMENT PROPER.

If the brief has been well drawn, that is, if the relations of the main idea and the other ideas necessary in the discussion have been correctly determined; if as climactic as possible an arrangement has been made of the parts, and

if the transitions from division to division have been so neatly managed that each seems to grow out of that which preceded it, then the unity of the argument proper should be good. A writer needs, however, to watch his phrasing as he passes from paragraph to paragraph within the divisions of the argument proper. Often the paragraphs of a forensic are independent and apparently mutually repellent blocks of thought. The ideal work is that in which each sentence of a paragraph develops naturally into the next, each paragraph develops into that which follows it, each division leads to the one succeeding. Such unity gives not only clearness and force, but also ease, a flowing style. How disjointed and how awkward in phrasing are forensics not based on a well-unified brief, and not carefully phrased in the transitions from part to part, the "Beaconsfield" forensic on p. 182 shows. For the ease that comes from neatly phrased transitions in thought see Pitt's *Speech on the Slave Trade* and Grattan's *Declaration of Irish Rights*.<sup>1</sup>

Whatever was suggested in the sections treating the brief proper as likely to lead to clearness and force in drawing briefs will, of course, produce these effects in the forensic. A knowledge of evidence, of the ways in which to sift it, will give a reader evidence that is clear and forcible. Also an ability to phrase one's ideas clearly and forcibly will aid greatly. There are, moreover, certain suggestions, particularly in regard to presenting, handling evidence, apart from testing it, which it seems best to consider here. A careful regard for them will add to the clearness and force of the argument proper.

<sup>1</sup> *Selected Orations*. Camelot Series, pp. 120-165.

## SUGGESTIONS FOR HANDLING EVIDENCE.

1. *The Order: Proposition, Proof.*—The law given for the argumentative part of the brief, that the proposition should always precede the proof, does not hold rigidly for the forensic. In the brief it was necessary, in order that any one looking it over might, with the least expenditure of time and trouble, see just what was to be proved, and how. What was said on p. 274 of the occasional advantage to be derived from holding back any statement of just the thesis to be proved until the writer is ready to state it as the conclusion applies as well to the main thesis of any division. *If anything is to be gained by leading up step by step to a conclusion that is revealed only as the writer turns to a new division, this is a desirable method in the forensic.*

2. *Do not quote References only.*—A writer should not make a Poole's Index of his forensic. That is, he should not write a series of assertions about his main thesis and support them simply by numerous references to articles in periodicals, chapters or passages in books, which, if consulted by the reader, will give him thoroughly trustworthy evidence in favor of the writer's ideas. This is a favorite method with beginners in Argumentation who lazily dread the work of copying out all the necessary evidence. Of course, such work is neither clear nor forcible, and cannot be convincing. "Trustworthy" is used above, because if the writer refers to evidence that does not support him, or that may have two or more interpretations, he falls into the fallacy of a false assumption (p. 255), or into that of ambiguous references (p. 258).

3. *Put References on the Pages where they belong.*—In developing a brief into a forensic a writer should not,

*from the desire to save labor, put at the beginning or at the end of his forensic the names of all the books or documents consulted, and then expect his reader to place rightly among these each quotation made in his pages. Nor should he be satisfied with such a list after putting a numeral before each book in it and repeating this numeral in the forensic before every quotation drawn from the particular book.* Such contrivances to save the writer's time waste the patience of the reader, and more is lost than is gained. Whenever a quotation is made, or whenever a writer gives only the gist of another man's writing or words, the source should be carefully named at the bottom of the page — the title of the book, the author, the volume, the page, and, if necessary, the edition — and this reference should be connected by some sign with the part of the text it supports.

4. *Do not quote Conclusions Merely, unless as an Argument from Authority.* — A writer should remember, also, that in giving evidence he is not to quote merely a man's conclusions, unless his words may be properly regarded as authoritative. To quote them, unless in the exception made, is merely to shift an assertion from the writer's shoulders to those of other men, perhaps even less known than he is to his reader. This is what the writer on the Eastern Question did when he asserted: "Lord Beaconsfield said that Constantinople is the Key of the East" (see p. 183). Not Lord Beaconsfield's conclusion, but his reasons for it, are what should be given. Professor Dicey recognized the truth of this rule in his treatment of the report of the Parnell Commission: —

"The whole of the document signed by the Commissioners, and not only the findings which summarize their conclusions,



must be read and accepted as their verdict concerning the matters referred to their decision.

"The 'findings' are little more than a summary of the results at which the Commission have arrived. The findings, indeed, if read alone, are hardly intelligible, and at any rate lose half their import. The word 'intimidation,' for example, admits of and has received various interpretations. We understand what it means in the findings only when we have read the descriptions and the examples of it given in the body of the Report. When we read in Finding No. 4, that the respondents 'did disseminate the *Irish World* and other newspapers inciting to the commission of crime,' we hardly know what was their offense. To understand its nature we must know other facts set forth in the Report; we must learn what style of paper was the *Irish World*, and what its connection with the League. A great deal more again follows than the Parnellites or their English allies care to admit from the fact now proclaimed by the Report to the English-speaking world, that *United Ireland* had been from the first the official organ of the League, and was founded by Mr. Parnell, Mr. W. O'Brien, and other Land Leaguers. But the point now insisted upon needs no lengthy elaboration. Any reader of intelligence will soon see that it is the whole Report, and not the findings alone, which must be treated as the judicial decision or deliverance of the Commissioners." <sup>1</sup>

Not an ally's final opinion, then, but the evidence by which he reaches it is the important matter for citation.

5. *Do not refer from the Argument itself to the Brief.*—The writer should never, because he has given evidence fully in his brief, refer the reader to the brief for it. Let him remember here, as everywhere in his forensic, that the forensic and the brief are separate efforts, and repeat

<sup>1</sup> *The Verdict*, p. 7. Dicey.

at the proper place in the forensic the evidence already given in the brief.

6. *Select, even in Good Evidence.* — In the chapter on Evidence the student was told how to value the kinds of evidence. He will find that after he has excluded all the bad evidence, even then he must select. What remains is of different values. Some of it is by itself conclusive. Other bits that when alone are not conclusive become so when combined with two or three others of the same sort. There will be some that, though not bad, may be excluded by the worker because he has other evidence which is more convincing. When handling evidence a student will find it convenient to remember the old distich,

“Where one’s proofs are aptly chosen  
Four are as valid as four dozen.”<sup>1</sup>

*Not the number of the proofs, but their convincingness, is the important matter in evidence, and a writer should always use as little evidence as is consistent with proving his point.* By this means he gains in force, for, as has been justly said, “*Proof which goes for nothing, goes for less than nothing.*”<sup>2</sup> This is true because a keen reader, seeing that nothing is gained by the presence of the proof in question, is forced to believe that the writer thought it had value when it had none, or was willing to palm off as convincing evidence which was not, or was a careless workman. Any of these suppositions will make him suspicious of the man and of all his work. Hence the proof that seemed harmless has done decided harm.

<sup>1</sup> Quoted by J. Q. Adams, *Lectures on Oratory*, vol. II, p. 92.

<sup>2</sup> *Theory of Preaching*, Phelps.

*A student should not, however, forget, in his desire to give only the proof absolutely necessary, that some questions cannot be proved true by one instance, one bit of evidence.* For instance, in treating the question, "Should a Federation of Great Britain and her Colonies be formed?" it is not enough to show that this would be advantageous for Great Britain, or for Cape Colony, or New South Wales, but the colonies must be divided into groups whose conditions are alike, and the needs of each group considered. This is true, as was pointed out (p. 264) of the question "Should the Australian Ballot System be adopted in the United States?" That is, if a student does not remember that some statements cannot be proved true by a single instance, no matter how strong, he will fall into the fallacy of proving true for only a part what should be proved true of the whole.

7. *When a Witness who may be Unknown is used, Always explain why he is selected.*—A reader should never be left in ignorance as to the respectability, the right to speak, of any witnesses cited. Far too often college students quote evidence, convincing in itself, from books or articles whose writers are not known to most readers. If the students have learned why the writers are to be trusted, they should give this information before the evidence is cited. When a writer quotes David Livingstone or H. M. Stanley on something connected with African exploration, it will hardly be necessary to introduce the witness, but there are many reliable writers on Africa who will be unknown to nine out of ten of the readers who at once recognize Livingstone and Stanley as authorities. In using such witnesses it is necessary simply to show what qualifications they have to speak on the subject in hand.

Here, for instance, is the way in which Professor Dicey in his consideration of the verdict of the Parnell Commission shows why he thinks all readers should trust the judges : —

“Of the honesty of the three judges, of their intentional fairness, of their unblemished character, of their judicial capacity, it is needless to say anything. Their special qualifications for the discharge of a most arduous task are on all hands admitted. The means possessed by them for ascertaining the truth were, strictly speaking, unparalleled; these means were such as never have been, and probably never again will be, possessed by any other men, whether politicians or magistrates. Sir James Hannen and his colleagues saw and heard all the witnesses whom the foes or the defenders of the League chose to produce; all the evidence brought forward was given on oath, it was subjected to the test of the most rigorous cross-examination, it was sifted with the utmost care without any regard to the expenditure either of time or of labor; the lawyers employed on either side were the picked men of the legal profession in England and in Ireland. No one's mouth was closed. The one circumstance which is supposed to detract from the fairness of our criminal procedure — the compulsory silence of the accused — was from the peculiar nature of the investigation got rid of. Every respondent was at liberty to appear and make whatever statement he chose in defence of himself or of the association of which he was a member. The appearance of some and the non-appearance of others among the Parnellites incriminated were equally instructive. The non-production of proof may be at least as suggestive as its production; silence may tell more than speech. Of the amount of the evidence brought before the Commission Court some faint conception may be formed by remembering that over 450 witnesses were examined, that the proceedings in court lasted for 128 days, and that the official

account of them fills a 'Bluebook' of eleven huge volumes, making up 7,227 pages. During a much longer period, moreover, than the 128 days of the inquiry the effect of the evidence was before the minds of the judges. They did not deliver any hasty decision; months elapsed between the closing of the investigation and the sending in of their Report. If the account given by such men of the inferences to be drawn from such an inquiry is not to be treated as trustworthy and true, it is hard to say what is the evidence on which any man can venture to rely."<sup>1</sup>

8. *Be Concrete in Evidence.* — Aim always at concreteness in the evidence given. Do not be satisfied with an abstract statement when it can be clearly illustrated. In the case of the following quotations, how much better than any citation of the mere agreement of some historian or geographer with the main thesis is the concrete illustration of what the writer means :—

"Johnson came up to London precisely at the time when the condition of a man of letters was most miserable and degraded. It was a dark night between two sunny days. The age of patronage had passed away. The age of general curiosity and intelligence had not arrived. The deficiency of the natural demand for literature was, at the close of the seventeenth and at the beginning of the eighteenth century, more than made up by artificial encouragement, by a vast system of bounties and premiums. There was, perhaps, never a time at which the rewards of literary merit were so splendid, at which men who could write well found such easy admittance to the most distinguished society, and to the highest honors of the State. The chiefs of both the great parties into which the kingdom was divided patronized literature with emulous unificence. Congreve, when he had scarcely attained his

<sup>1</sup> *The Verdict*, pp. 3, 4. Dicey.

majority, was rewarded for his first comedy with places which made him independent for life. Smith, though his *Hippolytus* and *Phaëdra* failed, would have been consoled with three hundred a year but for his own folly. Rowe was not only poet-laureate, but also land surveyor of the customs in the port of London, clerk of the council to the Prince of Wales, and secretary of the Presentations to the Lord Chancellor. Hughes was secretary to the Commissions of the Peace. Ambrose Philips was Judge of the Prerogative Court in Ireland. Locke was Commissioner of Appeals and of the Board of Trade. Newton was Master of the Mint. Stepney and Prior were employed in embassies of high dignity and importance. Gay, who commenced life as an apprentice to a silk mercer, became a secretary of legation at five-and-twenty. It was to a poem on the Death of Charles the Second, and to the City and Country Mouse, that Montague owed his introduction into public life, his earldom, his garter, and his auditorship of the exchequer. Swift, but for the unconquerable prejudice of the queen, would have been a bishop. Oxford, with his white staff in his hand, passed through the crowd of his suitors to welcome Parnell, when that ingenious writer deserted the Whigs. Steele was a commissioner of stamps and a member of Parliament. Arthur Mainwaring was a commissioner of the customs, and auditor of the imprest. Tickell was secretary to the Lords Justices of Ireland. Addison was Secretary of State.”<sup>1</sup>

“I have never yet seen any chart pictorial enough to enable the spectator to imagine the kind of contrast in physical character which exists between Northern and Southern countries. We know the differences in detail, but we have not that broad glance and grasp which would enable us to feel them in their fulness. We know that gentians grow on the Alps, and olives on the Apennines; but we do not enough conceive for our-

<sup>1</sup> *Essays on Croker's Boswell's Johnson*, pp. 353, 354.

selves that variegated mosaic of the world's surface which a bird sees in its migration, that difference between the district of the gentian and of the olive which the stork and the swallow see far off, as they lean upon the sirocco wind. Let us, for a moment, try to raise ourselves even above the level of their flight, and imagine the Mediterranean lying beneath us like an irregular lake, and all its ancient promontories sleeping in the sun: here and there an angry spot of thunder, a grey stain of storm, moving upon the burning field; and here and there a fixed wreath of white volcano smoke, surrounded by its circle of ashes; but for the most part a great peacefulness of light, Syria and Greece, Italy and Spain, laid like pieces of a golden pavement into the sea-blue, chased, as we stoop nearer to them, with bossy beaten work of mountain chains, and glowing softly with terraced gardens, and flowers heavy with frankincense, mixed among masses of laurel, and orange and plummy palm, that abate with their grey-green shadows the burning of the marble rocks, and of the ledges of porphyry sloping under lucent sand. Then let us pass farther towards the north, until we see the orient colors change gradually into a vast belt of rainy green, where the pastures of Switzerland, and poplar valleys of France, and dark forests of the Danube and Carpathians stretch from the mouths of the Loire to those of the Volga, seen through clefts in grey swirls of rain-cloud and flaky veils of the mist of the brooks, spreading low along the pasture lands: and then, farther north still, to see the earth heave into mighty masses of leaden rock and heathy moor, bordering with a broad waste of gloomy purple that belt of field and wood, and splintering into irregular and grisly islands amidst the northern seas, beaten by storm and chilled by ice-drift, and tormented by furious pulses of contending tide, until the roots of the last forests fail from among the hill ravines, and the hunger of the north wind bites their peaks into barrenness; and, at last, the wall of ice, durable like iron, sets, deathlike, its white teeth against us out of the polar

twilight. And, having once traversed in thought its gradation of the zoned iris of the earth in all its material vastness, let us go down nearer to it, and watch the parallel change in the belt of animal life: the multitudes of swift and brilliant creatures that glance in the air and sea, or tread the sands of the southern zone; striped zebras and spotted leopards, glistening serpents, and birds arrayed in purple and scarlet. Let us contrast their delicacy and brilliancy of color, and swiftness of motion, with the frost-cramped strength, and shaggy covering, and dusky plumage of the northern tribes; contrast the Arabian horse with the Shetland, the tiger and leopard with the wolf and bear, the antelope with the elk, the bird of paradise with the osprey.”<sup>1</sup>

Beecher’s Liverpool speech and the First Letter of Junius illustrate throughout the great value of the concrete. Beecher followed almost every statement of a general idea with a concrete illustration of it. The letter of Junius is simply a series of concrete exemplifications of the truth of the general thesis with which he began.

*Aim, then, at concreteness of statement.*

9. *Avoid Digression.* — Some forensics by college students treat their subjects in a way that reminds a reader of a dog out for a walk with his master. The dog certainly covers the country before he returns home, but he is here, there, and everywhere, now at his master’s heels, now over the stone wall, now barking up a tree. He is drawn off from the straight road by any new thing that catches his eye. He makes no selection in his interests. All that has been said of the value of finding by analysis just what matter is essential to the case and what is extraneous, all the rules for gaining unity in a brief, tend

<sup>1</sup> *Stones of Venice*, Ruskin, vol. II, pp. 156-158. John W. Lovell Co.



to prevent in writers of forensics a similar tendency to leave the straight road, to follow whatever is attractive and may not be intimately connected with the subject in hand. If all these rules are carefully observed, the forensic cannot be loose in its main structure. The development of paragraphs should, however, be watched lest this tendency to digress, to develop the work loosely, appear in them.

10. *Effective Methods of Refutation: The Reductio ad Absurdum.*—There are three often-used methods of refutation which a student of Argumentation will find it convenient to understand: the *Reductio ad Absurdum*, the *Dilemma*, and the *Method of Residues*. In the first, the *Reductio ad Absurdum*, a writer, assuming for the moment the truth of his opponent's statement, shows that it must lead to absurdity, that it proves too much. Beecher used the *Reductio ad Absurdum* to answer his audience when they seemed to favor the South on the ground that they must always sympathize with the "weaker people, the minority"; and showed the absurdity of an attempt to carry out this theory in all cases.

"You cannot help going with the minority, who are struggling for their rights against the majority. Nothing could be more generous, when a weak party stands for its own legitimate rights against imperious pride and power, than to sympathize with the weak. But who ever sympathized with a weak thief, because three constables had got hold of him? [Hear, hear!] And yet the one thief in three policemen's hands is the weaker party. I suppose you would sympathize with him. [Hear, hear! laughter, and applause.] Why, when that infamous king of Naples, Bomba, was driven into Gaeta by Garibaldi with his immortal band of patriots, and Cavour sent

against him the army of Northern Italy, who was the weaker party then? The tyrant and his minions; and the majority was with the noble Italian patriots, struggling for liberty. I never heard that Old England sent deputations to King Bomba, and yet his troops resisted bravely there. [Laughter and interruption.] To-day the majority of the people of Rome is with Italy. Nothing but French bayonets keeps her from going back to the kingdom of Italy, to which she belongs. Do you sympathize with the minority in Rome or the majority in Italy?"<sup>1</sup>

In the following, from the speech on *Conciliation with the American Colonies*, Burke showed the absurdity of the statement, "We should impoverish our colonies in order to make them obedient":—

"To impoverish the colonies in general, and in particular to arrest the noble course of their marine enterprises, would be a more easy task. I freely confess it. We have shown a disposition to a system of this kind. . . . But when I consider that we have colonies for no purpose but to be serviceable to us, it seems to my poor understanding a little preposterous to make them unserviceable in order to keep them obedient."<sup>2</sup>

Evidently all that this method ever accomplishes, with the exception of the case in which but two points of view are possible, — that refuted and that held by the refuter, — is to clear the ground so that the writer can develop proof in favor of his own theory.

*The Dilemma.* — The second method is the Dilemma. By this a writer reduces his opponent's case to an alternative; shows that the first part does not hold true; then

<sup>1</sup> *Specimens of Argumentation* (Modern), p. 170.

<sup>2</sup> *Political Orations*. Camelot Series, p. 77.

that the second does not; and concludes that, therefore, the opponent's case falls. Plainly, the value of such a method is purely destructive. A writer does not, by the use of the Dilemma, necessarily prove the truth of his case. He can only build up his argument on the place once occupied by his opponent. Huxley used this method effectively in disproving the Miltonic hypothesis in regard to the creation of the world—that it was created in seven days, the birds on one day, the fishes on another, etc.:—

“The Miltonic hypothesis contains assertions of a very definite character, relating to the succession of living forms. It is stated that plants, for example, made their appearance upon the third day, and not before. And you will understand that what the poet means by plants are such plants as now live, the ancestors, in the ordinary way of propagation like by like, of the trees and shrubs which flourish in the present world. It must needs be so; for, if they were different, either the existing plants have been the result of a separate origination since that described by Milton [first horn of dilemma], of which we have no record, nor any ground for supposition that such an occurrence has taken place; or else they have arisen by a process of evolution from the original stocks [second horn of the dilemma, the strength of which is not admitted by holders of the Miltonic hypothesis]. . . . And, again, if it be true that all varieties of fishes and the great whales, and the like, made their appearance on the fifth day, we ought to find the remains of these animals in the older rocks—in those which were deposited before the carboniferous epoch. Fishes we do find, in considerable number and variety; but the great whales are absent, and the fishes are not such as now live. Not one solitary species of fish now in existence is to be found in the Devonian or Silurian formations. Hence we are introduced

afresh to the dilemma which I have already placed before you: either the animals which came into existence on the fifth day were not such as those which are found at present, are not the direct and immediate ancestors of those which now exist [this is contrary to the belief of those holding the theory]; in which case either fresh creations, of which nothing is said, or a process of evolution must have occurred; or else the whole story must be given up, as not only devoid of any circumstantial evidence, but contrary to such evidence as exists."<sup>1</sup>

*The Method of Residues.* — The third method of refuting a case is the Method of Residues. A writer shows by careful analysis what are all the possible theories that may be held in regard to some disputed matter, and then, by excluding one after the other for convincing reasons given, leaves his own theory standing with at least a strong presumption<sup>2</sup> in its favor. It is possible, of course, until the one remaining theory has been shown to be entirely satisfactory, that some other hypothesis not yet evolved may be the correct one. Therefore proof is usually given for the reason left standing by the fall of the other theories. Professor Huxley used this Method of Residues in the first of his *Three Lectures on Evolution*. Stating that, so far as he knew, but three hypotheses have ever been held in regard to the creation of the world, he carefully explained each. He showed why the first cannot be maintained; next, why the second falls;

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 79, 82, 83.

<sup>2</sup> Throughout this book a student should distinguish carefully between a presumption and an assumption. When a man is said to have a presumption in his favor, this means that his proposition "is assumed to be true in the absence of proof to the contrary." (Hill's *Rhetoric*, p. 332.) A man makes an assumption whenever he advances without support a statement, the truth of which is not generally admitted.

and thus left a clear way for his proof of the truth of the theory of Evolution and a strong presumption in its favor.<sup>1</sup>

Still another effective method of refutation — a favorite of Macaulay's — is to take up an opponent's argument as if to refute it, and then show that it makes not for, but against the opponent. This is an argumentative turning of the enemy's flank. Macaulay's "assault on primogeniture illustrates his manner of retorting that the facts prove exactly the opposite of what is asserted : —

'It is evident that this theory, though intended to strengthen the foundations of Government, altogether unsettles them. Did the divine and immutable law of primogeniture admit females or exclude them? On either supposition, half the sovereigns of Europe must be usurpers, reigning in defiance of the command of heaven, and might be justly deposed by the rightful heirs.'"<sup>2</sup>

#### REFUTATION IS DESTRUCTIVE, NOT CONSTRUCTIVE.

These examples of refutation must make clear a very important fact that every student should remember. *Except when it has been conclusively shown that but a certain number of theories or statements are possible in regard to the matter under discussion, and all the possible theories but one have been refuted, refutation is purely destructive, and does not prove anything to be true or to exist. In all cases but that excepted, it merely clears the ground for the proof the refuter wishes to give of the truth of his own ideas. In the exception mentioned, by showing that all*

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 60 et seq.

<sup>2</sup> *Manual of English Literature*, p. 150, Minto.

*the possible theories but one do not hold, it at least establishes a strong presumption in favor of that one. So difficult, however, is it to be sure that all possible explanations of a phenomenon, all the theories in regard to it, have been named, that careful workers in Argumentation — for example, Professor Huxley, see p. 308 — are usually satisfied with getting, even from the exception noted, a strong presumption in their favor, and go on to prove why their theory, their explanation, is to be accepted.*

II. *Study Emphasis.* — A very important matter far too often neglected by students of Argumentation is study of emphasis, that is, giving prominence to that in an argument which it is important a reader should grasp and retain in mind. The whole analytical process of separating what is essential in a treatment of the case in hand from what is extraneous is a study of a kind of emphasis. So, too, when a student considers, in preparing his brief, whether an idea is to be made a head or a sub-head, and how he must arrange his ideas to get climax, he again studies emphasis, for what is given a main position, what is put at the end of a climax, is emphasized. Indeed, the emphasis that comes from the position given an idea is largely settled in the brief. Rhetoric, however, may still do much to give emphasis, and may do its work both by the position and by the phrasing it gives an idea. Any college student knows that whether an idea is placed at the beginning, in the middle, or at the end of a sentence or paragraph — its position in relation to other words — may affect emphasis. He knows, too, that the very phrasing of an idea, that reiteration of it, can make it prominent, difficult to forget. Any and all devices that he knows for giving emphasis he

should bear constantly in mind in his work on Argumentation, for they are well-nigh indispensable aids to force in discussion.

Constantly, beginners in Argumentation who give strong evidence in support of their ideas produce but a weak effect because they do not drive home their arguments. In developing a long division of their work they do not push into prominence that idea which they wish a reader to grant and remember. When they have given their proof of the truth of an idea they pass at once to proof about another idea, without any effort to impress unmistakably on the reader's mind exactly what they think the just completed division has accomplished. A reader may, therefore, feel that he ought to be convinced, but not be sure about what; or he may be sure that something which is not just what the writer intended to prove true has been demonstrated as a fact. The value of emphasis was recognized very early in the history of oratory:—

“A striking trait of Isaeus [420–350 B.C.] in the province of argument is iteration; and the preference of emphasis to form which this implies is worth notice as suggesting how the practical view of oratory was beginning to prevail over the artistic. Sometimes the repetition is verbal — an indignant question or phrase occurs again and again, where Isocrates would have abstained from using it twice. More often it is an argument or a statement which the speaker aims at impressing on the hearers by urging it in a series of different forms and connections. Or even a document, cited at the outset, is read a second time, as if to make the jury realize more vividly that a circle of proof has been completed.”<sup>1</sup>

<sup>1</sup> *Attic Orators*, vol. II, p. 297. Jebb.

*A valuable means of impressing on a reader the truths a writer wishes him to accept as proved is the use of summaries.* At the end of a division which has been long, involved, technical, or for any reason not easy to grasp, a writer sums up the significance of what he has been saying. He gives an outline in a succinct form likely to stay in a reader's mind, and thus emphasizes what he wishes to have remembered. Burke was a master of the summary. The following examples of his use of it in his speech on *Conciliation with the American Colonies* show how effective an aid to clearness and force the summary can be.

"Then, sir, from these six capital sources: of descent; of form of government; of religion in the northern provinces; of manners in the southern; of education; of the remoteness of situation from the first mover of government,—from all these causes a fierce spirit of liberty has grown up. It has grown with the growth of the people in your colonies, and increased with the increase of their wealth; a spirit that, unhappily, meeting with an exercise of power in England, which, however lawful, is not reconcilable to any ideas of liberty, much less with theirs, has kindled this flame that is ready to consume us." <sup>1</sup>

"If, then, the removal of the causes of this spirit of American liberty be, for the greater part, or rather entirely, impracticable; if the ideas of criminal process be inapplicable, or if applicable, are in the highest degree inexpedient; what way yet remains? No way is open, but the third and last—to comply with the American spirit as necessary; or, if you please, to submit to it as a necessary evil." <sup>2</sup>

"Here is my third example. It was attended with the success of the two former. Chester, civilized as well as Wales,

<sup>1</sup> *Political Orations.* Camelot Series, p. 72.

<sup>2</sup> *Idem*, p. 82.



has demonstrated that freedom, and not servitude, is the cure of anarchy ; as religion, and not atheism, is the true remedy for superstition.”<sup>1</sup>

“ Sir, here is the repeated acknowledgment of parliament that the colonies not only gave, but gave to satiety. This nation has formally acknowledged two things ; first, that the colonies had gone beyond their abilities, parliament having thought it necessary to reimburse them ; secondly, that they had acted legally and laudably in their grants of money, and their maintenance of troops, since the compensation is expressly given as reward and encouragement. Reward is not bestowed for acts that are unlawful ; and encouragement is not held out to things that deserve reprehension. My resolution, therefore, does nothing more than collect into one proposition what is scattered through your journals. I give you nothing but your own ; and you cannot refuse in the gross what you have so often acknowledged in detail. The admission of this, which will be so honorable to them and to you, will, indeed, be mortal to all the miserable stories by which the passions of the misguided people have been engaged in an unhappy system.”<sup>2</sup>

Here is the summary with which Justice Harlan concluded the second part of his argument before the Behring Sea Tribunal, in Paris, in 1893 : —

“ If I am correct in the views above expressed, the answers to the first four points of Article VI. should be, substantially, as follows :

“ *To the first.* — Prior to and up to the time of the cession of Alaska to the United States, Russia did not assert nor exercise any exclusive jurisdiction in Behring Sea, or any exclusive rights in the fur seal fisheries in that sea, *outside of ordinary territorial waters*, except that in the Ukase of 1821 she did assert the right to prevent foreign vessels from approaching

<sup>1</sup> *Political Orations.* Camelot Series, p. 92.

<sup>2</sup> *Idem*, p. 99.

nearer than 100 Italian miles the coasts and islands named in that Ukase. But, pending the negotiations to which that Ukase gave rise, Russia voluntarily suspended its execution, so far as to direct its officers to restrict their surveillance of foreign vessels to the distance of cannon shot from the shores mentioned, and by the treaty of 1824 with the United States, as well as by that of 1825 with Great Britain, the above Ukase was withdrawn, and the claim of authority, or the power to prohibit foreign vessels from approaching the coasts nearer than 100 Italian miles was abandoned, by the agreement embodied in those treaties to the effect that the respective citizens and subjects of the high contracting parties should not be troubled or molested, in any part of the Great Ocean commonly called the Pacific Ocean, either in navigating the same or in fishing therein, or in landing at such parts of the coast as shall not have been already occupied, in order to trade with the natives, under the restrictions and conditions specified in other articles of those treaties.

*“To the second.*—Great Britain never recognized nor conceded any claim by Russia of exclusive jurisdiction in Behring Sea, nor of exclusive rights as to the seal fisheries therein, outside of ordinary territorial waters; although she did recognize and concede Russia's exclusive jurisdiction within her own territory, and such jurisdiction inside of territorial waters as was consistent with the law of nations.

*“To the third.*—The body of water now known as Behring Sea was included in the phrase ‘Pacific Ocean’ as used in the treaty of 1825 between Great Britain and Russia, and, after that treaty, Russia neither held nor exercised any rights in the waters of Behring Sea—outside of ordinary territorial waters—that did not belong in the same waters to other countries.

*“To the fourth.*—All the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring Sea, east of the water boundary in the treaty between the United States and Russia

of March 30, 1867, passed, under that treaty, unimpaired to the United States.”<sup>1</sup>

12. *Avoid Qualifications.* — What often weakens the effect of an argument in a forensic is qualification. The writer develops his argument and then, as he closes the paragraph or division, says, “This, then, seems to me true for these reasons, but even if I have not proved this, surely I have proved that . . .” This at once arouses the reader’s suspicions. He fears that the writer has worked either carelessly or ignorantly, in either case not correctly valuing his evidence before using it, and so has recognized at the last moment its inadequacy for the purpose for which he has used it. Faith in the writer is weakened, and the reader’s suspicions may extend to what he has already accepted as true. Qualification is really an admission of fault. When a man states or implies at the end of a division that he has certainly proved true what is really but a qualified form of his original proposition, he admits his failure to prove that proposition itself. In the following extract from Pitt’s speech on the *Slave Trade* there is a kind of qualification at the end :—

“On the part of the West Indians it is urged, ‘The planters are in debt, they are already distressed; if you stop the slave trade, they will be ruined.’ Mr. Long, the celebrated historian of Jamaica, recommends the stopping of importations as a receipt for enabling the plantations which are embarrassed to get out of debt. Speaking of the usurious terms on which money is often borrowed for the purchase of fresh slaves, he advises ‘the laying of a duty equal to a prohibition on all negroes imported for the space of four or five years, except for

<sup>1</sup> *Behring Sea Arbitration*, pp. 110, 111. Harlan.

reëxportation. Such a law,' he proceeds to say, 'would be attended with the following good consequences. It would put an immediate stop to these extortions; it would enable the planter to retrieve his affairs by preventing him from running in debt, either by renting or purchasing negroes; it would render such recruits less necessary, by the redoubled care he would be obliged to take of his present stock, the preservation of their lives and health; and lastly, it would raise the value of negroes in the island. A North American province, by this prohibition alone for a few years, from being deeply plunged in debt, has become independent, rich, and flourishing.' On this authority of Mr. Long I rest the question whether the prohibition of further importations is that rash, impolitic, and completely ruinous measure which it is so confidently declared to be with respect to our West Indian plantations. I do not, however, mean, in thus treating this branch of the subject, absolutely to exclude the question of indemnification, on the supposition of possible disadvantages affecting the West Indies through the abolition of the slave trade. But when gentlemen set up a claim of compensation merely on these general allegations, which are all that I have yet heard from them, I can only answer, let them produce their case in a distinct and specific form; and if upon any practicable or reasonable grounds it shall claim consideration, it will then be time enough for Parliament to decide upon it."<sup>1</sup>

Pitt seems, up to "I do not, however," to be proving that the abolition of slavery could not hurt the planters of the West Indies. In the lines after "I do not, however," he implies that he can conceive that it might hurt them sufficiently for them to be justified in asking for indemnity. This makes a reader feel that for some reason Pitt did not think that what seems his conclusive

<sup>1</sup> *Political Orations.* Camelot Series, pp. 147, 148.

proof was such, and weakens the force of the first part of the paragraph. A little change in the phrasing and arrangement of the paragraph would obviate this difficulty. The correct order of the train of thought underlying the paragraph is this. The West Indians say the abolition of slavery will ruin them. (1) It may cause them some loss at the outset, but (2) it cannot ruin them and (3) may really help them. (4) An indemnity would meet satisfactorily the immediate loss. By slightly confusing this order Pitt produces the effect of qualification. Were the ideas treated strictly in this order and form the qualification would disappear. *When a writer is tempted to qualify, let him find (1) just what it is he is trying to prove in the division, and then (2) whether his evidence is equal to his needs. If his evidence is insufficient, let him find new evidence sufficiently strong, or change his proposition to something his original evidence will prove true. Then qualification will disappear.*

13. *Be Master of the Subject.* — Any reader of the forensic on Lord Beaconsfield and the Eastern Question (p. 182) must see what a bad effect is produced when a writer is evidently not master of his subject. The work is not only unconvincing but also irritating. For a writer not to be master of his subject means loose, ununified work, full of contradictions, qualifications, and fallacies. To be master of it means good structure, a clear, forcible development of the material, free from fallacies, and an air of sureness that will make the audience trust the speaker or writer from the outset, that will have a persuasive force of its own. Constant quotation seriously interferes with any attempt to produce the effect of mastery of the subject. "They show an undi-

gested knowledge. They lose the power of personality. They daub the well with untempered mortar. Here is the need of broad and genuine culture. Learn to study for the sake of truth, learn to think for the profit and joy of thinking. Then your sermon shall be like the leaping of a fountain and not the pumping of a pump." <sup>1</sup> Study to be able to meet your opponent boldly, doing full justice to the case he can make out for himself, and yet overcoming him. *Develop your whole case in such a way that from the beginning to the end a reader or hearer will feel, "This man is completely master of his subject."*

14. *Fit the Treatment of the Subject to the Degree of Knowledge of it Possessed by the Audience.*—Though a writer should show that he is master of his subject, he should not let this mastery lead him into the obscurity that often makes the work of a specialist difficult for the general public to understand. The specialist forgets that his audience can have but a small part of the knowledge of his subject which he possesses. He shares the feeling of Lowell: "I am apt also to fancy that what has long been familiar to my own mind must be equally so to the minds of others, and this uncomfortable suspicion makes me shy of insisting on what may be already only too little in need of it." <sup>2</sup>

As a result the specialist fails to explain what for his audience needs explanation, fails to show why certain statements which he makes must be true. A student of Argumentation should not forget that any man who has taken time to write a careful argument on some subject is a specialist on that subject as compared with

<sup>1</sup> *Lectures on Preaching*, Phillips Brooks.

<sup>2</sup> Lowell, *Literary Essays*, vol. I, p. vi. Houghton, Mifflin & Co., 1890.

most of his fellow-men. If not on his guard he will produce work of which he can say, with Sir Kenelm Digby: —

“For besides what faylings may be in the matter, I cannot doubt but that even in the expressions of it, there must often be great obscurity and shortnesse; which, I, who have my thoughts filled with the things themselves, am not aware of. So that, what peradventure may seem very full to me, because every imperfect touch bringeth into my mind the entire notion and the whole chain of circumstances belonging to that thing I have so often beaten upon, may appear very crude and maymed to a stranger, that cannot guesse what I would be at, otherwise than as my direct words do lead him.”<sup>1</sup>

In Argumentation a student should decide early what degree of knowledge of his subject he may probably expect from the audience to be addressed, and then must treat the subject so that it shall be perfectly clear and convincing, not to him, the specialist, but to the audience itself.

#### PERSUASION IN THE ARGUMENT ITSELF.

The second work of the argument itself, to persuade, college students usually neglect. The skillful writer, on the other hand, never forgets it, losing no opportunity to give to the particular idea he is developing, the reference he makes, the illustration he uses, to any and every part of his argument, a bearing personal to his audience, so that their individual interests, their emotions, as well as their reasoning powers, shall be stirred. The following examples will show how different orators have, either as

<sup>1</sup> Quoted in Lowell's *Literary Essays*, vol. I, p. vi. 1890.

they developed their arguments or as soon as these have been stated, found something in the ideas to stir the emotions of their audiences. Here is the way Isocrates tried to arouse his audience to the strongest enthusiasm for Sparta :—

“There could be no nobler cause in which to die than the present, when the prestige, when the very existence of Sparta is threatened. Epidaurus, Corinth, Phlius may without reproach prefer safety to honour; Sparta cannot. The reputation of the city ought to be as dear to every Spartan as his own: he ought not to suffer it to desert the post at which our fathers placed it. How could we ever show our faces at Olympia or at any Hellenic gathering, if we were to find our own slaves outshining us there by means of wealth taken from us? Dipaea, where a single line of Spartans defeated all the Argives; Thermopylae, where a thousand Spartans held their ground against the seventy myriads of Persia—ought to teach us self-reliance now. Nothing is hopeless in war. It was by war, not peace, that Athens and Thebes grew. And in this struggle we should be stimulated by remembering that all Hellas is watching us.”<sup>1</sup>

In the following from the *First Olynthiac* Demosthenes shows, in the second paragraph, the significance for his audience of his words in the first paragraph:—

“Does any one of you, Athenians, compute or consider the means, by which Philip, originally weak, has become great? Having first taken Amphipolis, then Pydna, Potidaea next, Methone afterward, he invaded Thessaly. Having ordered matters at Pherae, Pagasae, Magnesia, everywhere exactly as he pleased, he departed for Thrace; where, after displacing some kings and establishing others, he fell sick; again recov-

<sup>1</sup> *Attic Orators*, vol. II, pp. 200, 201, R. C. Jebb.



ering, he lapsed not into indolence, but instantly attacked the Olynthians. I omit his expeditions to Illyria and Paeonia, that against Arymbas, and some others.

“Why, it may be said, do you mention all this now? That you, Athenians, may feel and understand both the folly of continually abandoning one thing after another, and the activity which forms part of Philip’s habit and existence, which makes it impossible for him to rest content with his achievements. If it be his principle, ever to do more than he has done, and yours, to apply yourself vigorously to nothing, see what the end promises to be. Heavens! which of you is so simple as not to know, that the war yonder will soon be here, if we are careless? And should this happen, I fear, O Athenians, that as men who thoughtlessly borrow on large interest, after a brief accommodation, lose their estate, so will it be with us; found to have paid dear for our idleness and self-indulgence, we shall be reduced to many hard and unpleasant shifts, and struggle for the salvation of our country.”<sup>1</sup>

Henry Ward Beecher was very skillful in so stating his ideas, his conclusions, as to make them not only convincing but persuasive. Here is an extract from the speech at Liverpool, which shows this skill:—

“Never for a moment have they [the Southern leaders] given up the plan of spreading the American institutions, as they call them, straight through toward the West, until the slave, who has washed his feet in the Atlantic, shall be carried to wash them in the Pacific. There! I have got that statement out, and you cannot put it back. Now, let us consider the prospect. If the South becomes a slave empire, what relation will it have to you as a customer? It would be an empire of twelve millions of people. Now, of these, eight millions are white, and four millions black. Consider that one-third of the

<sup>1</sup> *Demosthenes*, p. 41, Kennedy. Harper’s Classical Library.

whole are the miserably poor, unbuying blacks. You do not manufacture much for them. You have not got machinery coarse enough. Your labor is too skilled by far to manufacture bagging and linsey-woolsey. (A Southerner: 'We are going to free them, every one.') Then you and I agree exactly. One other third consists of a poor, unskilled, degraded white population; and the remaining one-third, which is a large allowance, we will say, intelligent and rich.

"Now here are twelve million of people, and only one-third of them are customers that can afford to buy the kind of goods that you bring to market."<sup>1</sup>

Study of these illustrations will show that *persuasive value may be given to arguments either by a direct appeal, suggested by them, to the emotions, or by pointing out or suggesting that significance of the ideas advanced which, for any reason, is likely to stir the audience to action.*

#### THE PERORATION : ITS IMPORTANCE.

The third division of a forensic, that which corresponds to the conclusion of a brief, is the Peroration. The work of this is by no means unimportant, for in it a writer makes his final impression upon his reader, and this must be as strong, as lasting, as he can produce. Study of briefs should have shown that any carefully constructed bit of argumentation is a steady preparation for the peroration. It is to the argument what the climax is to the story, the fifth act to the play. It is, therefore, extremely important that any worker in Argumentation should understand what, properly, is the work of the peroration, and how this may be best accomplished.

In any literary work, to know when to stop is a power

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 167, 168.

essential to mastery in it. Has the reader never heard a story-teller spoil his tale because, after its climax was reached, he did not know enough to stop, or, though he evidently felt that he had nothing more to add, did not know how to end his story? Has he never heard an after-dinner speech which began well, was brilliant for some minutes, and then became unendurable because the speaker did not know when and how to stop? Some speakers and writers find as much difficulty in getting out of a story or speech as a bashful caller does in getting out of a room. Like him, they make many false starts, and waste many words. If a student has constructed his brief carefully he will know when the proper time to stop has come, for, evidently, as soon as he has placed all his own arguments and his refutation before his audience, the more quickly he sums up his case and closes, the better. Comparison of the closing words of Aeschines (p. 324) and Demosthenes (p. 341) "On the Crown" gives a striking example of the difference between a peroration in which the speaker did not know where to stop, and one where he did know. "Aeschines, not being a true artist, stands in awe of the art. He does not venture to be original and to stop at his real climax. He must needs conform with the artistic usage of a formal harmony; and he mars all. Demosthenes, the master, can make his art obey him. With true instinct, he feels this to be the rare case which the rule does not fit. The emotions of his hearers have been stirred beyond the point of obedience to the pulses of an ordered music. His intense appeal to the memories of his countrymen ends in a storm of imprecation and of prayer."<sup>1</sup>

<sup>1</sup> *Attic Orators*, vol. II, p. 416, Jebb.

This is the peroration of Aeschines :—

“Remember, then, that the city whose fate rests with you is no alien city, but your own. Give the prizes of ambition by merit, not by chance; reserve your rewards for those whose manhood is truer and whose characters are worthier; look at each other and judge, not only with your ears but with your eyes, who of your number are likely to support Demosthenes? His youthful companions in the chase or gymnasium? No, by the Olympian Zeus! He has not spent his life in hunting or in any healthful exercise, but in cultivating rhetoric to be used against men of property. Think of his boastfulness, when he claims, by his embassy, to have snatched Byzantium out of the hands of Philip, to have thrown the Acharnanians into revolt, to have astonished the Thebans with his harangue! He thinks that you have reached a point of fatuity at which you can be made to believe even this—as if your fellow-citizen were the Goddess of Persuasion, instead of a pettifogging mortal. And when, at the end of his speech, he calls as his advocates those who shared his bribes, imagine that you see on this platform, where I now speak before you, an array drawn up to confront their profligacy—the benefactors of Athens; Solon, who ordered the democracy by his glorious laws, the philosopher, the good legislator, entreating you, with that gravity which so well became him, never to set the rhetoric of Demosthenes above your oaths and above the law; Aristides, —who assessed the tribute of the Confederacy, and whose daughters, after his death, were dowered by the State, —indignant at the contumely threatened to Justice, and asking, *Are you not ashamed? When Arthmios of Zeleia brought Persian gold to Greece, and visited Athens, our fathers well-nigh put him to death, though he was our public guest, and proclaimed him expelled from Athens, and from all territory that the Athenians rule; while Demosthenes, who has not brought us Persian gold, but has taken bribes for himself, and has kept them to this day, is*

*about to receive a golden wreath from you!* And Themistocles, and they who died at Marathon and Plataea, ay, and the very graves of our forefathers — do you not think that they will utter a voice of lamentation, if he who covenants with barbarians to work against Greece shall be — crowned?’

“This was the true climax. But Aeschines felt the presence of the Attic rule. He must not *end* thus. The storm must be laid in a final harmony. And so he passed on to the most tremendous failure that ever followed so close upon a triumph:—

“‘O Earth and Sunlight! O ye influences of Goodness, of Intelligence, of that Culture by which we learn to distinguish things beautiful or shameful — *I* have done my duty, I have finished. If the part of the accuser has been performed well and adequately to the offense, then I have spoken as I wished, — if defectively, yet I have spoken as I could. Judge for yourselves from what has been spoken or from what has been left unsaid, and give your sentence in accordance with justice and with the interests of Athens.’”<sup>1</sup>

#### THE WORK OF CONVICTION IN THE PERORATION.

The work that the Peroration may do is, like that of the two other parts of a forensic, twofold. It may appeal to the reason; it may appeal to the emotions. Its simplest work in conviction is that called for by the conclusion of the brief, recapitulation of the argument. Secondly, it may amplify and diminish; that is, point out the importance and the conclusiveness of the proof given by the writer, the unimportance of whatever in the opponent's case is left undestroyed, the inconclusiveness of his proof

<sup>1</sup> *Attic Orators*, vol. II, pp. 406, 407, Jebb.

as a whole. The first peroration which follows shows mere recapitulation. The quotation from *A Roman Lawyer in Jerusalem* given on pp. 221-223 is the first part of a peroration that diminishes by showing the improbability of the ordinary view of Judas, and amplifies by showing how natural the writer's view makes his conduct. The amplifying part of the peroration is given below. The third quotation shows recapitulation followed by amplifying.

"The attitude of the Jews in Russia may be summed up under two main heads, — the injuries which they inflicted upon the government and upon the people. Their offences against the central authority were, financially, by defrauding it through contract work and smuggling; socially, by encouraging the venality of officials and by forming no part of the life of the nation; and politically, by intriguing for their own advantage with foreign countries, and by acting as spies. On the other hand, they were not a class valuable to the nation, since they made poor soldiers; since, far from being artisans, they were mostly engaged in dishonorable occupations; since they were unlikely to add to Russia's intellectual progress; and since their mode of life was revolting, and many were criminals. In addition, they were increasing dangerously.

"Their relations with the people may be briefly summarized. The Jews were a source of ill-health to the Christians through their filthy habits, and through their habitual sale of bad meat and *vodka*. They were not only instruments of cruel oppression, but were defrauding the Christians of trade, movable property, their future labor, harvests, and homes. Moreover, in protecting itself and its people from the encroachments of the Jews, the Russian government acted wisely, defensibly, and lawfully, since it authorized no persecution, and punished those who had been guilty of inflicting it. The expulsion of the Jews

by Russia was, then, a protective measure for state and people, inspired by a desire to hold Russia for the Russians.”<sup>1</sup>

The following should be read with the quotation on pp. 221–223:—

“But take the other view that Lysias takes,  
All is at once consistent, clear, complete.  
Firm in the faith that Christus was his God,  
The Great Messiah sent to save the world,  
He, seeking for a sign — not for himself,  
But to show proof to all that he was God —  
Conceived this plan, rash if you will, but grand.  
‘Thinking him man,’ he said, ‘mere mortal man,  
They seek to seize him — I will make pretence  
To take the public bribe and point him out,  
And they shall go, all armed with swords and staves,  
Strong with the power of law, to seize on him —  
And at their touch lo, God himself shall stand  
Revealed before them, and their swords shall drop:  
And prostrate, all before him shall adore,  
And cry, “Behold the Lord and King of all !”’  
But when the soldiers laid their hands on him  
And bound him as they would a prisoner vile,  
With taunts, and mockery, and threats of death —  
He all the while submitting — then his dream  
Burst into fragments with a crash ; aghast  
The whole world reeled before him ; the dread truth  
Swooped like a sea upon him, bearing down  
His thoughts in wild confusion. He who dreamed  
To open the gates of glory to his Lord,  
Opened in their stead the prison’s jarring door,  
And saw above him his dim dream of Love  
Change to a Fury stained with blood and crime.  
And then a madness seized him, and remorse  
With pangs of torture drove him down to death.

<sup>1</sup> From a forensic : “The Expulsion of the Jews by Russia was Justifiable.”

Conceive with me that sad and suffering heart  
If this be true that Lysias says — Conceive !  
Alas ! Orestes, not so sad thy fate,  
For thee Apollo pardoned, purified —  
Thy Furies were appeased, thy peace returned,  
But Judas perished, tortured unto death,  
Unpardoned, unappeased, unpurified.  
And long as Christus shall be known of men  
His name shall bear the brand of infamy,  
The curse of generations still unborn.”<sup>1</sup>

“This, sir, is the detail. In one view, behold a nation overwhelmed with debt ; her revenues wasted ; her trade declining ; the affections of her colonies alienated ; the duty of the magistrate transferred to the soldiery ; a gallant army, which never fought unwillingly but against their fellow-subjects, mouldering away for want of the direction of a man of common abilities and spirit ; and, in the last instance, the administration of justice become odious and suspected to the whole body of the people. This deplorable scene admits but of one addition — that we are governed by councils, from which a reasonable man can expect no remedy but poison, no relief but death.

“If, by the immediate interposition of Providence, it were possible for us to escape a crisis so full of terror and despair, posterity will not believe the history of the present times. They will either conclude that our distresses were imaginary, or that we had the good fortune to be governed by men of acknowledged integrity and wisdom. They will not believe it possible that their ancestors could have survived, or recovered from so desperate a condition, while a Duke of Grafton was Prime Minister, a Lord North Chancellor of the Exchequer, a Weymouth and a Hillsborough Secretaries of State, a Granby Commander-in-chief, and a Mansfield chief criminal judge of the kingdom.”<sup>2</sup>

<sup>1</sup> *A Roman Lawyer in Jerusalem*, pp. 14, 15. W. W. Story.

<sup>2</sup> *Specimens of Argumentation* (Modern), pp. 58, 59.



## THE WORK OF PERSUASION IN THE PERORATION.

The persuasive work of the peroration is (1) to take advantage of the last opportunity offered the writer to win the sympathy of his audience for himself or his subject, and (2) to stir the passions of his hearers. In all the cases requiring persuasive work, which were mentioned in treating the introduction to a forensic — a dull or technical subject, an audience that does not know the speaker, or is hostile to him or to his subject, etc., — the writer or speaker will find in his peroration another good opportunity for conciliatory work. He has a chance there to show how well he has kept promises he made in beginning, to make his audience see that though the subject is dull or technical he has done his best to lighten or clear it ; why the subject is important enough for every man to feel repaid for the labor of attending closely to the speech. He can make his audience feel that though he came before them unknown he has justified his right to speak, and has shown them common interests, bonds of sympathy, which should prevent hostility to him or to his subject. It is the general recognition of the chance which the peroration offers for appeals to the emotions that has led Fourth of July orators to think their addresses cannot end properly without some “spread-eagle” outburst — the old story of the incorrect application of a correct principle. The following lines, which close the *First Olynthiac* of Demosthenes, persuade by showing to each class in the listening audience the special appeal that the proposed plan for succor of Olynthus has for it : —

“On all these accounts, then, we must unite to lend our succor, and drive off the war yonder ; the rich, that, spending a

little for the abundance which they happily possess, they may enjoy the residue in security ; the young, that, gaining military experience in Philip's territory, they may become redoubtable champions to preserve their own ; the orators, that they may pass a good account of their statesmanship ; for on the result of measures will depend your judgment of their conduct. May it for every cause be prosperous." <sup>1</sup>

The closing lines of the *Funeral Oration* by Hypereides on the death of Leosthenes and his friends, before Lamia, shows direct appeal to the emotions : —

" It is hard, perhaps, to comfort those who are in such a sorrow ; grief is not laid to rest by speech or by observance ; rather is it for the nature of the mourner, and the nearness of the lost, to determine the boundaries of anguish. Still, we must take heart, and lighten pain as we may, and remember not the death of the departed but the good name also that they have left behind them. We owe not tears to their fate, but rather great praises to their deeds. If they came not to old age among men, they have got the glory that never grows old, and have been made blessed perfectly. Those among them who died childless shall have as their inheritors the immortal eulogies of Greece ; and those of them who have left children behind them have bequeathed a trust of which their country's love will assume the guardianship. More than this, — if to die is to be as though we had never been, then these have passed away from sickness and pain and from all the accidents of the earthly life ; or, if there is feeling in the under-world, and if, as we conjecture, the care of the Divine Power is over it, then it may well be that they who rendered aid to the worship of the gods in the hour of its imminent desolation are most precious to that Power's providence." <sup>2</sup>

<sup>1</sup> *The Olynthiac and other Public Orations of Demosthenes*, pp. 44, 45. C. R. Kennedy. Harper & Bros.

<sup>2</sup> *Attic Orators*, vol. II, pp. 392, 393, R. C. Jebb.

Lord Erskine, in the concluding words of his defense of Lord George Gordon, so sums up as first to show the jury, whom he had feared might easily be rendered hostile, that the prisoner, as was promised, had been shown to be not guilty of the crime charged against him. Then, instead of appealing directly to the emotions of his auditors, Lord Erskine suggested possible appeals to their sympathies. These, though he left them immediately, began at once to work on the minds of his hearers. The apparent willingness to waive any emotional appeals served to produce in the minds of the jury trust in Lord Erskine's confidence in the absolute convincingness of his proof. By this means, also, he forced the jury to make itself responsible for any part that their sympathies might have in the verdict given. He could say that he had busied himself only with what rested on evidence and must appeal to their reason. Students of Persuasion should study this peroration, for it does much in a few lines. It is a model of restraint, of succinct persuasion.

"I may now, therefore, relieve you from the pain of hearing me any longer, and be myself relieved from speaking on a subject which agitates and distresses me. Since Lord George Gordon stands clear of every hostile act or purpose against the Legislature of his country, or the properties of his fellow-subjects—since the whole tenor of his conduct repels the belief of the *traitorous intention* charged by the indictment—my task is finished. I shall make no address to your passions. I will not remind you of the long and rigorous imprisonment he has suffered ; I will not speak to you of his great youth, of his illustrious birth, and of his uniformly animated and generous zeal in Parliament for the Constitution of his country. Such

topics might be useful in the balance of a doubtful case ; yet, even then, I should have trusted to the honest hearts of Englishmen to have felt them without excitation. At present, the plain and rigid rules of justice and truth are sufficient to entitle me to your verdict.”<sup>1</sup>

The close of the speech of Lysias *Against Eratosthenes* shows an application of the case to the different parts of the audience, similar to that of Demosthenes in the extract just given. It is, however, a more direct appeal to the passions.

“I wish, before I go down, to recall a few things to the recollection of both parties, the party of the Town and the party of the Peiraeus ; in order that, in passing sentence, you may have before you as warnings the calamities which have come upon you through these men.

“And you, first, of the Town — reflect that under their iron rule you were forced to wage with brothers, with sons, with citizens, a war of such a sort that, having been vanquished, you are the equals of the conquerors, whereas, had you conquered, you would have been the slaves of the Tyrants. They would have gained wealth for their own houses from the administration ; you have impoverished yours in the war with one another ; for they did not deign that you should thrive along with them, though they forced you to become odious in their company ; such being their consummate arrogance that, instead of seeking to win your loyalty by giving you partnership in their prizes, they fancied themselves friendly if they allowed you a share of their dishonours. Now, therefore, that you are in security, take vengeance to the utmost of your power both for yourselves and for the men of the Peiraeus ; reflecting that these men, villains that they are, were your masters, but that now good men are your fellow-citizens, — your fellow-soldiers against the enemy,

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 152, 153.

your fellow-counsellors in the interest of the State ; remembering, too, those allies whom these men posted on the acropolis as sentinels over their despotism and your servitude. To you — though much more might be said — I say this much only.

“ But you of the Peiraeus — think, in the first place, of your arms — think how, after fighting many a battle on foreign soil, you were stripped of those arms, not by the enemy, but by these men in time of peace ; think, next, how you were warned by public criers from the city bequeathed to you by your fathers, and how your surrender was demanded by the cities in which you were exiles. Resent these things as you resented them in banishment ; and recollect, at the same time, the other evils that you have suffered at their hands ; — how some were snatched out of the market-place or from temples and put to a violent death ; how others were torn from children, parents, or wife, and forced to become their own murderers, nor allowed the common decencies of burial, by men who believed their own empire to be surer than the vengeance from on high.

“ And you, the remnant who escaped death, after perils in many places, after wanderings to many cities and expulsion from all, beggared of the necessities of life, parted from children, left in a fatherland which was hostile or in the land of strangers, came through many obstacles to the Peiraeus. Dangers many and great confronted you ; but you proved yourselves brave men ; you freed some, you restored others to their country.

“ Had you been unfortunate and missed those aims, you yourselves would now be exiles, in fear of suffering what you suffered before. Owing to the character of these men, neither temples nor altars, which even in the sight of evil-doers have a protecting virtue, would have availed you against wrong ; — while those of your children who are here would have been enduring the outrages of these men, and those who are in a foreign land, in the absence of all succor, would, for the smallest debt, have been enslaved.

"I do not wish, however, to speak of what might have been, seeing that what these men have done is beyond my power to tell; and, indeed, it is a task not for one accuser, or for two, but for a host.

"Yet is my indignation perfect for the temples which these men bartered away or defiled by entering them; for the city which they humbled; for the arsenals which they dismantled; for the dead, whom you, since you could not rescue them alive, must vindicate in their death. And I think that they are listening to us, and will be aware of you when you give your verdict, deeming that such as absolve these men have passed sentence upon *them*, and that such as exact retribution from these have taken vengeance in *their* names.

"I will cease accusing. You have heard — seen — suffered: you have them: judge."<sup>1</sup>

#### THE EXTENT TO WHICH PERSUASION AND CONVICTION SHOULD MINGLE IN A PERORATION.

The extent to which persuasion and conviction should mingle in a peroration will, as in the introduction to a forensic and in the argument itself, depend on the nature of the subject, *i.e.*, whether it calls for or permits persuasion, and on the conditions under which the speech is to be heard or the paper read. Perorations may range, of course, from those giving only one of the four kinds of work possible in a peroration, through those showing recapitulation with amplification and diminishing, or showing these two and some conciliatory words, or appeals to the emotions, to perorations showing all four kinds of work. To consider when one should use persuasion, to what extent, and how one should gain it, belongs, of course, to the next chapter, *Persuasion*.

<sup>1</sup> *Attic Orators*, vol. I, pp. 185-188, R. C. Jebb.

## THE QUALITIES OF A GOOD PERORATION.

In general, *the requisites of a good peroration are: an element of surprise; avoidance of statements not in the argument proper; brevity; clearness; and elegance.*<sup>1</sup>

1. *An Element of Surprise.*—It has been said with considerable truth that an element of surprise in the peroration is desirable. Certainly, if a reader sees early in the work just what the writer's conclusion is to be, the mere stating of it at the end cannot be very interesting. Yet, as was seen on p. 275, it is by no means wise in most cases to retain till the end of the work the exact conclusion to be reached. The peroration will gain in force and interest, however, if some application of the conclusion to the conditions of the audience, or some appeal to their emotions, be made. The process of amplifying or diminishing may, too, point out interestingly the weakness of the opponent's case or the strength of one's own. In some of these ways an element of novelty, of the unexpected, in the peroration may readily be gained. For examples see the illustrations on pp. 327, 328.

2. *Avoidance of Statements not in the Argument Proper.*—There are two errors in recapitulation by no means uncommon; especially in extemporaneous speaking or in speaking from slight notes.

(a) The orator, in summing up his proof in the peroration, may bring into it new arguments. He notices as he sums up his arguments that, through forgetfulness, either because of hasty work or of a tendency of mind,

<sup>1</sup> These are, with the exception of the first, requisites of a peroration given by Dr. Phelps. For an interesting discussion of them see his *Theory of Preaching*, pp. 520-522.

one or two arguments he intended to use have not been treated. He tucks them in, therefore, at the last minute. Doubtless, if they are needed, it is better for the speaker to state them than to lose them, but by putting them into the peroration he loses the finish of his work and lays himself open to a suspicion of careless workmanship throughout his speech. This suspicion may make hearers hesitate to trust his work as a whole. For the writer who has time to prepare his work such patching up of a poor job at its end is inexcusable. Any need for such patching shows that the argument is incomplete. It should be met by the insertion of the proof in question at its proper place in the forensic or speech.

(b) The writer or speaker may refer to matters as proved in the argument itself, which have not been treated at all. This usually happens through inadvertence, the writer thinking he has treated the argument when he has not. In any case such a method weakens the work. A reader or hearer will judge the writer or speaker either careless or untrustworthy, and either judgment is disadvantageous to the worker.

3. *Brevity*. — With college students as yet untrained in Argumentation a favorite ending for a forensic is: "Here, then, are my arguments. I think, therefore, that I have proved my case." This is given without any recapitulation of the arguments stated in the forensic. Such work is too much like that of the old minister of whom Dr. Phelps wrote.<sup>1</sup> The minister always preached just an hour, with his watch lying open before him. When he saw that the hour was past, no matter where he

<sup>1</sup> *The Theory of Preaching*, C. Scribner Sons, 1893.



happened to be in his discourse, he broke off at once, saying: "Brethren, the hour is up. Let us pray." What must have been the final impression left by these edifying discourses! There is such a thing, then, as too great brevity in a peroration, but a student should aim to accomplish those portions of the possible work of a peroration which the conditions of his subject seem to demand as briefly as he can. A clear, forcible, final impression is what he is trying to leave, and a lengthy peroration — *i.e.*, one containing many new matters for thought or long involved statements of what has been shown to be true — is liable to defeat its own end.

The fact that the conditions under which the speech is given or the paper read must determine the length of the peroration is well illustrated by the end of Oliver Cromwell's speech in dissolving the First Protectorate Parliament.

"I have troubled you with a long speech; and I believe it may not have the same resentment with all that it hath with some. But because that is unknown to me, I shall leave it to God; — and conclude with this: That I think myself bound, as in my duty to God, and to the People of these Nations for their safety and good in every respect, — I think it my duty to tell you that it is not for the profit of these Nations, nor for common and public good, for you to continue here any longer. And therefore I do declare unto you, That I do dissolve this Parliament."<sup>1</sup>

In itself this seems abrupt, but if a reader studies the speech itself, he will see that the peroration is a fitting close to it. It emphasizes, by its neglect of any careful summary of the arguments, any application of them to

<sup>1</sup> *Political Orations*. Camelot Series, p. 39.

the audience, any elaborate appeal to the emotions, Cromwell's determination to carry things with a high hand, and his belief that he was acting as a divine agent. Certainly, however, there can be no doubt that the length and the involved style of the following final summary of Sir Philip Sidney's argument, *The Defence of Poesy*, defeats the very end for which the peroration exists — to leave a clear and forcible final impression on the reader : —

“So that since the ever praiseworthy poesy is full of virtue-breeding delightfulness, and void of no gift that ought to be in the noble name of learning ; since the blames laid against it are either false or feeble ; since the cause why it is not esteemed in England is the fault of poet-apes, not poets ; since, lastly, our tongue is most fit to honor poesy, and to be honored by poesy ; I conjure you all that have had the evil luck to read this ink-wasting toy of mine, even in the name of the Nine Muses, no more to scorn the sacred mysteries of poesy ; no more to laugh at the name of poets, as though they were next inheritors to fools ; no more to jest at the reverend title of ‘a rimer’ ; but to believe, with Aristotle, that they were the ancient treasurers of the Grecians’ divinity ; to believe, with Bembus, that they were the first bringers-in of all civility ; to believe, with Scaliger, that no philosopher’s precepts can sooner make you an honest man than the reading of Virgil ; to believe, with Clauserus, the translator of Cornutus, that it pleased the Heavenly Deity by Hesiod and Homer, under the veil of fables, to give us all knowledge, logic, rhetoric, philosophy natural and moral, and *quid non* ? to believe, with me, that there are many mysteries contained in poetry, which of purpose were written darkly, lest by profane wits it should be abused ; to believe, with Landino, that they are so beloved of the gods, that whatsoever they write proceeds of a divine fury ; lastly, to believe themselves, when they tell you they will make you immortal by their verses.

"Thus doing, your name shall flourish in the printers' shops. Thus doing, you shall be of kin to many a poetical preface. Thus doing, you shall be most fair, most rich, most wise, most all; you shall dwell upon superlatives. Thus doing, though you be *libertino patre natus*, you shall suddenly grow *Herculea proles, si quid mea carmina possunt*. Thus doing, your soul shall be placed with Dante's Beatrice or Virgil's Anchises.

"But if — fie of such a but! — you be born so near the dull-making cataract of Nilus, that you cannot hear the planet-like music of poetry; if you have so earth-creeping a mind that it cannot lift itself up to look to the sky of poetry, or rather, by a certain rustical disdain will become such a mome as to be a Momus of poetry; then, though I will not wish unto you the ass's ears of Midas, nor to be driven by a poet's verses, as Bubonax was, to hang himself, nor to be rimed to death, as is said to be done in Ireland; yet thus much curse I must send you on the behalf of all poets: — that while you live you live in love, and never get favor for lacking skill of a sonnet; and when you die, your memory die from the earth for want of an epitaph." <sup>1</sup>

4. *Clearness*. — Above all, let a peroration be clear. Avoid any confusion in stating what has been proved true or false. Do not shift the order of the parts of the work in naming them over. Do not refer vaguely to what has been proved. What a writer or a speaker is endeavoring in his peroration to give his reader or hearer may be compared to a map of the country through which he has traveled, with red lines under the places that should be particularly remembered; or a formula so simple and so carefully emphasized that it and its signification must indelibly impress themselves on a reader's or a hearer's

<sup>1</sup> *Defence of Poesy*, Sir Philip Sidney, pp. 57, 58, A. S. Cook. Ginn & Co., 1890.

mind. Hence, above all, a peroration must be clear, — in thought, in construction, and in phrasing.

5. *Elegance.* — The perfect peroration doubtless has another quality — elegance. What was said (on p. 276), however, of the inadvisability of attempts at anything except rudimentary elegance in some kinds of work must, of course, be borne in mind. It is certainly, in most cases, entirely safe to work on the principle that an abrupt close to one's work is inelegant, and therefore inadvisable; but, as has been seen, the ending of the speech of Cromwell in dissolving the houses of Parliament better accomplished its purpose by its extreme abruptness. That is, there may be exceptions to this rule. It may, however, be said with safety that in perorations a writer should avoid spread-eagle oratory. Empty bombast, whatever is unreal, can never be elegant. When, too, the final summary can be only a last statement of a formula often repeated in the development of the whole argument, and gaining in size each time that it appears, a mere change in phrasing, *not in the order*, will often give ease to the final form. These two rules hold, in all cases, for whatever aids simplicity of style and avoids wearisome iteration of the same phrases is always pleasing.

#### THE AIM OF A PERORATION.

The ultimate aim of a peroration is, then, to bring the argument to a full and perfect close. To this end a knowledge when to stop, an element of the unexpected, avoidance of statements not in the argument itself, brevity, clearness, and elegance will contribute. The peroration of the speech of Demosthenes shows the perfect blending of all these qualities: —

“‘Here is the proof. Not when my extradition was demanded, not when they sought to arraign me before the Amphictyonic Council, not for all their menaces or their offers, not when they set these villains like wild beasts upon me, have I ever been untrue to the loyalty I bear you. From the outset, I chose the path of a straightforward and righteous statesmanship, to cherish the dignities, the prerogatives, the glories of my country: to exalt them: to stand by their cause. I do not go about the market-place radiant with joy at my country’s disasters, holding out my hand and telling my good news to any one who, I think, is likely to report it in Macedon; I do not hear of my country’s successes with a shudder and a groan, and a head bent to earth, like the bad men who pull Athens to pieces, as if, in so doing, they were not tearing their own reputations to shreds, who turn their faces to foreign lands, and, when an alien has triumphed by the ruin of the Greeks, give their praises to that exploit, and vow that vigilance must be used to render that triumph eternal.

“‘Never, Powers of Heaven, may any brow of the Immortals be bent in approval of that prayer! Rather, if it may be, breathe even into these men a better mind and heart; but if so it is that to these can come no healing, then grant that these, and these alone, may perish utterly and early on land and on the deep: and to us, the remnant, send the swiftest deliverance from the terrors gathered above our heads, send us the salvation that stands fast perpetually.’

“Two thousand years have challenged a tradition which lives, and will always live, wherever there is left a sense for the grandest music which an exquisite language could yield to a sublime enthusiasm — that, when Demosthenes ceased, those who had come from all parts of Greece to hear, that day, the epitaph of the freedom which they had lost, and a defence of the honour which they could still leave to their children, had listened to the master-

piece of the old world's oratory, perhaps to the supreme achievement of human eloquence."<sup>1</sup>

#### SUMMARY.

In a forensic there are, then, three parts, corresponding to the introduction, the brief proper, and the conclusion of a brief: namely, the introduction, the argument itself, and the peroration. Each has a twofold work that it may do: (1) in conviction, (2) in persuasion. The work of a forensic in conviction is to be accomplished through a well-made brief, good analysis, careful selection of evidence, and regard for the suggestions about handling evidence. What a forensic may accomplish in persuasion, also, this chapter should have made clear. Study in the details by which these persuasive results may be attained belongs, however, to the next chapter, on Persuasion.

<sup>1</sup> *Attic Orators*, vol. II, pp. 416-418, R. C. Jebb.

## CHAPTER VII.

### PERSUASION.

#### THE REASON FOR THE IMPORTANCE OF PERSUASIVE METHODS.

THE last chapter showed the importance of persuasion in Argumentation. This importance arises from two main sources. The first is what has already been made clear—that without the preliminary aid of persuasion it is sometimes useless or impossible to employ the methods of conviction. The second is that most argumentation aims to do more than to convince ; it aims to produce action as a result of the conviction gained. Unfortunately, to be convinced of the truth of an idea does not mean that he who is convinced will act promptly in accordance with that idea. Only in rare cases is that true. Any one who has begged money for a charity knows that it is not difficult to make people admit that they think the charity deserves every possible aid, but that it is a quite different matter to get any one who has made this admission to subscribe to the charity. There are probably few among those citizens who do not vote at elections who could not readily be made to admit that it is the duty of all citizens to vote carefully at all elections, but it will be difficult to prevail on them, because of this conviction alone, to overcome their own indifference to political matters, to travel some distance to the polls, or to take the trouble of deciding between two candidates alike distasteful to them. A man may be unable to deny

another's arguments, and yet long-formed habits and prejudices, though weakened for a moment by the cogency of the second man's arguments, will reassert themselves when the arguer is gone, and render his words resultless. Against prejudice and long-acquired habits the methods of conviction often find themselves futile, and hope lies only in the use of persuasion. *The methods of conviction, then, aim to produce only agreement, in the reader or hearer, with the writer or speaker; the methods of persuasion aim to produce action as a result of such agreement.*

#### THE FIELD OF PERSUASION.

When a man tries to rouse his fellow-men to action it may be, of course, to a single act or to a series of acts, even to forming a habit. Evidently it should be much easier to persuade a man to a single act than to a series of acts. It is easier to get the drunkard to forego some particular glass of liquor than to lead him to renounce all glasses of liquor. So well recognized is this that those who have charge of the morals of the people try first to produce only the single beneficial action, and then, by oft-repeated appeals and arguments, strive to maintain them in the right path. It is also easier to persuade people to continue conduct to which they have become accustomed, to maintain habits already formed, than it is to persuade them to entirely new acts, and either is easier than to dissuade them to give up old habits. Yet all three of these are work that belongs to Persuasion. It would seem, then, that since persuasion is so important a matter in Argumentation, and has work to do that varies decidedly in difficulty, there should be some rules to



guide a student. Yet, though the rules of Conviction will hold good wherever rational beings are met, men differ so widely on the emotional and the ethical sides of their natures—those with which Persuasion concerns itself—that, as the reader will see, it is impossible to give hard and fast rules for persuasion. If, however, a student considers from what sources persuasive effects may be derived, he will be able to gather some suggestions for his guidance. The last chapter has told him when he needs persuasion. If he knows whence he can gain persuasion, he can then study how much to use and how to employ what he uses—the two most difficult matters in Persuasion.

#### THE SOURCES OF PERSUASION.

The means by which a writer or speaker aims to produce action in his audience is—to define broadly—by winning sympathy for himself or his subject, usually for both. This sympathy may be derived from four sources: the nature of the subject itself; the rhetorical treatment given it; the application of the subject to the audience in question; and personal qualities of the speaker or writer.

##### PERSUASION ARISING FROM THE NATURE OF THE SUBJECT.

A popular topic, of course, from its very nature wins sympathy at the outset for a writer or speaker. This popularity may come from either of two sources: because the audience is not prejudiced either way in regard to it and is eager to know almost anything about it, or because the subject offers at the outset a presumption in its own

favor. When a man treats a popular subject, everybody is willing to listen, ready to aid him with interest and applause. A man who knows his subject and has an entertaining and instructive address to deliver on such a topic talks, or writes, under the easiest conditions. When a long-accepted theory is attacked, he who defends it has a presumption in his favor from the very fact that the theory has so long stood unassailed, or successful against all attacks. The audience shares in the speaker's or writer's belief, whatever it may be, and they will be thoroughly in sympathy with his attempt to overthrow those who attack him. The position of all those men who at different times have defended long-accepted views against so-called heretics in religion and science, illustrates the persuasive value of a subject that gives at the outset a presumption in favor of the speaker or writer.

#### PERSUASION ARISING FROM THE RHETORICAL TREATMENT OF THE SUBJECT.

Even the rhetorical treatment that a writer gives his work may have persuasive value, for it may win or repel sympathy. What has already been said (p. 274) of the danger there sometimes is in stating at the beginning of an argument the thesis to be proved true, and (p. 276) of aiming in all cases at elegance, shows this. The reader knows that under certain conditions either of these may repel sympathy for the writer or for his subject. As a rule, however, whatever gives clearness and force to Argumentation not only produces in the hearer or reader readiness to accept the ideas thus clearly and forcibly stated, but also wins sympathy for the arguer by creating

a belief in the general clearness and correctness of his work. This produces in the audience a disposition to accept whatever he may say. Indeed the rough rule may be formulated, that the rhetorical laws which lead to clearness, force and elegance, unless they contradict some of the suggestions about Persuasion already given, or to be given in this chapter, have a persuasive effect as well.

PERSUASION ARISING FROM THE APPLICATION GIVEN THE  
SUBJECT FOR THE AUDIENCE IN QUESTION.

Rhetorical treatment is, however, but one of four possible sources of persuasion. The third and fourth, persuasion arising from the application of the subject to the audience in question, and persuasion arising from qualities in the speaker or writer, are the most important.

If a reader turns back to the various illustrations of persuasion in the introduction, the argument proper and the peroration given in the last chapter, he will see that in all three the speaker or writer strove to put before his audience some motives for conduct. By "motive" is meant "whatever occasions or induces free action in man."<sup>1</sup> Demosthenes (p. 320) begged his audience to note that instant action meant greater likelihood of victory. Beecher (p. 321) made his audience see that the result of their view must be a poor market for their goods. Hypereides (p. 330) moved his audience to tears. Isaeus stirred them by stories of their country's glory in the past. A speaker or writer may, then, cause an audience to act, that is, persuade it, in two ways. He may point out whatever in any statement proved true or in

<sup>1</sup> *Art of Discourse*, p. 1, H. N. Day. Scribner, Armstrong & Co., 1867.

process of proof he feels will be for them a motive for action; or, he may stir their emotions so strongly with something he says about the topic that they will seek vent for their emotion in action and follow willingly his bidding. Demosthenes and Beecher did the first. Hyperides and Isaeus the second. Evidently, then, he who wishes to be persuasive must know what motives for conduct exist among human beings.

#### THE VARIETY IN MOTIVES. THEIR GRADES.

This is, however, no easy matter, for their name is legion. The illustrations already given appealed to the following motives: love of country; easier labor in one case than in another; desire for a good market, for manufactures; love of fair play, etc. Love of, and pride in, one's self, one's family, city, state, country; social and political ambition; avarice, anger, hatred, fear, charitableness; interest in education, literature or the fine arts; admiration of courage, perseverance, coolness, — these are all possible motives, causes, for action. *The first reason, then, why the study of motives in mankind is difficult is their number. A second reason has appeared even as the test above was named — that motives are not all of the same rank.*

Suppose that a man is induced to buy a lot of land, not because he has any real use for it, but because he knows that a man he dislikes strongly wishes to buy it. He will hardly care to say much about that motive. Suppose, on the other hand, that he buys it because the land, in a wretched part of the city, has been long used by poor children as a playground, and he knows that, if he does not

buy it, the land will be sold to a man who, by placing buildings on it, will deprive the children of their playground. Suppose that he buys it even at some inconvenience to himself, because he is public-spirited and fond of children. Will not his own opinion of himself, and particularly the opinion of him among his fellow-citizens, vary decidedly under the differing circumstances? That is, there are grades in the motives which lead to action, —from those which regard simply the good of the individual, through those which regard the good of some class, to those which regard the good of humanity. That ascending scale is recognized in all Christian nations. Certainly, then, a student of Persuasion must know not only what motives for conduct exist, but also how they are graded. It is not likely that any reader of this book will speak to an audience that will not grade motives on the rough scale given above, though possibly such exist, but unfortunately among Christian peoples the grading of motives within the broad divisions given varies greatly. What seems very important to one may seem far less so to another. Even in the same country the grading may vary. For instance, love of the arts, of literature, of science, is much greater in some cities than in others. Any man who has lived in the newer West knows that in some regions the greatest sin is stealing horses. In many places the desire to gain money dominates every other motive. Consequently, a student of Persuasion must know not only what in general are the motives that in human beings underlie action and what are the broad gradings in them recognized by all Christian nations, but also what grading is operative in the particular audience he is addressing. All this makes Persuasion a constant

study of particular cases, instead of, as in Conviction, a study of rules that hold good for all rational beings. It must show, too, why it is impossible to give generally applicable rules for Persuasion. *Breadth of experience, constant study, persistent practice; these are the essentials to successful persuasion.* Few men in modern times have understood persuasion better than did Lord Erskine. Trained first in the navy, later in the army, he became a lawyer who made all manner of acquaintances at assizes in all parts of England and Wales. Gaining thus a wide range of experience, he studied his fellow-men enthusiastically and minutely, and constantly applied the results of his study. One has only to read a speech of his to see that his eye was always on the faces of his audience. Here and there, from a change in wording, a reiteration, a sudden different method of attack, one learns that Erskine saw doubt or uncertainty on the face of some juryman, and was unwilling to move on until all his hearers were in accord with him.

Henry Ward Beecher, also, was very skillful in persuasion. He had met in his wide experience all sorts and conditions of men, had learned to read their faces and figures as indices of their mental and moral powers — an important faculty for the man who wishes to be persuasive. This wide experience gave him a deep knowledge of the causes of action, good and bad, in his fellow-men. When, too, he had a difficult audience to meet, he made before he spoke careful inquiries about its nature and tried to fit his treatment of his subject to the audience in question. As a result, when he had a difficult audience to meet, he handled it triumphantly, as in the Liverpool speech.

## SUGGESTIONS AS TO GAINING PERSUASION.

Though, as has been said, from the very nature of persuasion it is impossible to give rules so universally operative as those given for producing conviction in an audience, some suggestions that, if intelligently observed, may help a beginner in the subject, have been formulated. In using them, however, the student should remember that it is above all in Persuasion that he must be on the watch for exceptions which test the rule.

1. *Choose the highest motive to which the audience in question will respond.* — A student should remember that the motives higher in excellence and purity are always to be preferred to the lower. If, for any reason, he feels it necessary in his speech or article to appeal to motives not of the highest grade, he should see that before he closes he makes them lead to high motives. In the Liverpool speech, Beecher for some time appealed chiefly to the interest of his audience in securing a good market for their productions, but toward the end of his address he endeavored to make his audience feel that the arguments which appealed to their selfish interests also appealed to them as just and for the best interests of humanity.

A little reflection will show the reasons for the suggestion which heads this paragraph. Few men are willing to admit that they have acted for motives which they know their fellow-beings will consider low or mean. Even if they suspect that their real motives are not high, they endeavor to convince themselves that such is not the case. In an audience, too, where each man knows that those about him see what moves him in the speaker's words, he is usually unwilling to act on motives which other men

may consider base. Certain motives there are, also, which all Christian men regard as high and are glad to have as the causes of their acts — religious feeling, charity, devotion to one's country, etc.; but the grading of the innumerable motives which are not instantly recognized as of the first order varies not only in different countries, different states, but even in the same audience. One man may feel that charity begins at home, and that, therefore, the advancement of his children is a very high motive; the man next him may feel that care of the poor of a city is an even greater duty. One man may exalt his duty to his state or city above his duty to his country, and his neighbor may feel that the country is more important than all else. Since, then, men yield more willingly to high than to low motives, and since unanimity of action is more easily gained when the highest motives are addressed, this corollary to the rule given at the head of the section may be formulated. 2. *The larger the audience, the higher the motives to which an appeal may be made.*

### A THIRD SUGGESTION.

When a man who recognizes the truth of these two suggestions is considering what motives he can best appeal to in the audience he is to meet, he will ask: What is the general habit of mind of the audience, is it liberal or conservative, religious or free-thinking, etc.? He must, of course, in seeking motives to which he can appeal, avoid shocking his hearers by what may seem to them flippancy of tone, or boring them by what to their liberal minds seems stupidly unprogressive. Beecher, knowing that in Englishmen the love of fair play is a



habit of mind, appealed to this love in the opening of his Liverpool speech (p. 288). In like manner Junius, in his *First Letter* (p. 285), states at the beginning the frame of mind toward the governing powers habitual with most Englishmen, and then proceeds, by detail after detail, to show how that frame of mind has been "insulted and abused." A speaker must, then, (3) *decide what are the usual habits of mind of his audience.*

#### A FOURTH SUGGESTION.

It is not, however, enough to know that high motives may best be appealed to, and to understand what is the habitual frame of mind of the audience. It is necessary, also, to decide what specific motives are to be used. This means that (4) *a speaker must determine what are the special interests of his audience and in what way his subject can be connected with them.* This suggestion in regard to persuasion is the most widely understood, for almost every man knows that a chief means to persuasion is to show the listener that the topic touches some interest of his so vital that mere recognition of the connection at once leads to action. Demosthenes in the *First Olynthiac* (p. 320) pointed out to his hearers that their idleness and self-indulgence would mean ultimately a struggle for the very salvation of the country. Beecher (p. 321) pointed out to his Liverpool audience that freedom for slaves would mean a better market for their goods. In the following extract from the same speech he tries to show that his audience were really responsible for the evil they condemned :—

"There is another fact that I wish to allude to — not for the sake of reproach or blame, but by way of claiming your more

lenient consideration — and that is, that slavery was entailed upon us by your action. Against the earnest protests of the colonists the then government of Great Britain — I will concede not knowing what were the mischiefs — ignorantly, but in point of fact, forced slave traffic on the unwilling colonists. [Great uproar and confusion. . . . The disturbance having subsided —] I was going to ask you, suppose a child is born with hereditary disease; suppose this disease was entailed upon him by parents who had contracted it by their own misconduct, would it be fair that those parents that had brought into the world the diseased child, should rail at the child because it was diseased? [‘No, no!’] Would not the child have a right to turn round and say: ‘Father, it was your fault that I had it, and you ought to be pleased to be patient with my deficiencies.’ [Applause and hisses. . . . Much disturbance.] I do not ask that you should justify slavery in us, because it was wrong in you two hundred years ago; but having ignorantly been the means of fixing it upon us, now that we are struggling with mortal struggles to free ourselves from it, we have a right to your tolerance, your patience, and charitable constructions.”<sup>1</sup>

In the following extract from the speech on *Removing the Troops from Boston*, Chatham sought to persuade by pointing out to his audience an undeniable interest of theirs in the case: —

“This resistance to your arbitrary system of taxation might have been foreseen. It was obvious from the nature of things, and of mankind; and, above all, from the Whiggish spirit flourishing in that country. The spirit which now resists your taxation in America is the same which formerly opposed loans, benevolences, and ship-money in England; the same spirit which called all England ‘on its legs,’ and by the Bill of Rights

<sup>1</sup> *Specimens of Argumentation* (Modern), pp. 175, 176.

vindicated the English Constitution ; the same spirit which established the great, fundamental, essential maxim of your liberties, *that no subject of England shall be taxed but by his own consent.*"<sup>1</sup>

Study of Beecher's Liverpool address will show in it skillful recognition of all these suggestions. Beecher, as has been pointed out, knew that it is safest to appeal to high motives, and that when motives not of the highest are used, they must lead to consideration later of higher motives. Hence his effort to make the audience see that what would give them the best markets should also be favored because justice demands sympathy with the North and only by such sympathy can the two great nations work together against the powers of oppression and evil. He planned his speech on the idea that it is habitual in an English audience to like fair play, courage, independence, good-nature. He asked for the first because he could offer all the others in exchange. He constantly sought to show the audience the connection between his subject and their personal interests. A similar careful regard for these suggestions appears in the speeches of Demosthenes, especially the *Olynthiacs* and *Philippics*.

#### A FIFTH SUGGESTION.

When an audience is, for any reason, uninterested in the speaker or his subject, when the topic is likely to be dry, or when the speaker wishes to impress an idea on the hearer, (5) *it is often helpful to startle the audience.* It is a misapplication of this widely recognized truth that leads to sensational sermons. Demosthenes was very fond of

<sup>1</sup> *Specimens of Argumentation* (Modern), p. 15.

this method of winning the attention of an audience somewhat unwilling to hear him because they dreaded his fearless statement of home truths. In his speeches he often made statements so paradoxical that a reader is at once alert to see how anything that sounds so absurd or impossible could have been true.

"First, I say, you must not despond, Athenians, under your present circumstances, wretched as they are ; for that which is worst in them as regards the past, is best for the future. What do I mean? That your affairs are amiss, men of Athens, because you do nothing which is needful ; if, notwithstanding you performed your duties, it were the same, there would be no hope of amendment."<sup>1</sup>

Junius also made use of this method. When, in his *First Letter*, after a terrible arraignment of each of the chief officers of the Government, but only by the name of his office, he throws off, as he closes, all indirectness, and names each culprit, his daring startles a reader and stamps his ideas indelibly on the reader's mind :—

"If by the immediate interposition of Providence, it were (be) possible for us to escape a crisis so full of terror and despair, posterity will not believe the history of the present times. They will either conclude that our distresses were imaginary, or that we had the good fortune to be governed by men of acknowledged integrity and wisdom. They will not believe it possible that their ancestors could have survived, or recovered from so desperate a condition, while a Duke of Grafton was Prime Minister, a Lord North Chancellor of the Exchequer, a Weymouth and a Hillsborough Secretaries of State, a Granby Commander-in-Chief, and a Mansfield chief criminal judge of the kingdom."<sup>2</sup>

<sup>1</sup> Demosthenes, *Olynthiacs and Philippics*, p. 61. Kennedy.

<sup>2</sup> *Specimens of Argumentation* (Modern), pp. 58, 59.

## THE SECOND CHIEF MEANS OF PERSUASION.

To show an audience how it comports with their interests to do certain acts is not, however, the only means of persuasion. The Puritan divine of the early colonial days not only showed his audience how it concerned their interests to be upright members of society, but by pictures of the personal torture they would hereafter endure if they were not upright, terrified any refractory persons into obedience. To-day, the lawyer trying to convince a jury that some anarchists should be punished for throwing bombs, not only points out how it touches their interests as citizens, as fathers, that such outrages should cease, but paints vividly for them the scene of horror caused by the bomb-throwing. Each man tries to stir his audience to emotion so strong that it will seek relief in action, and, since the act suggested by the speaker is placed most vividly before the hearers, relief in that particular action. *Arousing the emotions, the passions, excitation as it is called, is, then, a strong means of persuasion.*

## TWO MEANS OF AROUSING EMOTION.

A person may, of course, arouse emotions in his fellows either by dwelling on matters likely to arouse them in his audience or by showing the emotions himself, thus making his audience from sympathy share the emotions with him. The illustrations just given show the first method. Every child who uses tears as a means of persuasion illustrates the second. So does the *First Oration Against Catiline*. The anger, the scorn of Cicero were so infectious that his audience shared them with him, and were ready to do his bidding.

## THE DANGER OF SHOWING STRONG EMOTION.

For persons of an emotional temperament exhibition of emotion seems doubtless the easiest method of persuading others, but it is very dangerous. The expression of strong emotion, unless the hearers are in full sympathy with it, has, especially for a cultivated audience, something a little repellent in it: it is too uncontrolled. Unless, then, a speaker is sure that he can carry his audience with him in his abandonment to his feelings, he runs the risk of repelling instead of attracting. Moreover, frequent dependence on this method of persuasion weakens its effect. An audience, seeing that the speaker seems to feel readily any emotion, begins to doubt the genuineness of the feeling shown, and to wonder whether it is at best more than perhaps unconscious acting of a high order. If it decides that the display of emotion is really but acting, the man's power in persuasion is gone. An audience may admire him as an actor; it will not do his bidding. Just here a student should note this difference between the art of the orator and the art of the actor. The success of the actor is complete if his audience feels: "This is the perfect simulation of anger, grief, mirth, misery." For the orator that judgment is the doom of his persuasive work. His audience must not feel: "This is the perfect semblance of anger, grief, or mirth"; it must not for an instant consider whether it is or not. Instead of that, it must be swept out of its self-control into participation in the anger, grief, mirth, or misery, and take to action as a consequence. *The orator has a special act in mind as the end of his persuasion; the actor has not.*

The danger of a free display of emotion is shown by the following words of Dr. Phelps: "It is a misfortune to be unable to suppress tears. I once knew a preacher whose most remarkable quality was the readiness with which he wept. He once shed tears in exhorting Christians not to be tardy in their attendance at the weekly meeting of the church. He was wonderfully attractive on a first hearing, but he had ten brief settlements."<sup>1</sup>

On the other hand, the exhibition of strong emotion by a nature noted for its self-control has great persuasive force. It is likely to sweep all before it.

It may be said that, as a rule, for a speaker to say to himself, "This idea gives me a chance for a stirring burst of emotion, here I will let my audience see how moved I am," has in it an element of the theatric and suggests failure. It is safer in planning persuasive work to trust to emphasizing motives and to a portrayal of the conditions which should arouse emotion than it is to depend on any show of emotion that is preconsidered. If the outburst comes on the spur of the moment, unexpected by the speaker himself, because the intensity of his feeling overmasters him, it will probably be very persuasive. If it does not come in this way, it will probably have a note of insincerity in it, and, as will be seen in a moment, sincerity is an essential of all lastingly persuasive work.

### THREE QUALITIES ESSENTIAL IN ANY APPEAL TO THE EMOTIONS.

*In all attempts to stir the emotions three qualities are essential: brevity, vividness, and avoidance of anything*

<sup>1</sup> *Theory of Preaching*, p. 568, Phelps.

*that may arouse in the audience feelings hostile to the end the speaker has in view.* Any appeal to the emotions has, as was seen above, a strong element of the dramatic in it. Any student of the stage knows that two of the chief essentials of dramatic work are to state ideas in the briefest form that will convey the necessary meaning and to give all possible vividness to the phrasing. A very powerful aid to brevity is selection. That is, a dramatist does not give all the details of the life of his characters, but tells his story by showing only the more prominent and essential features in their lives. So, too, a speaker or a writer who seeks to be persuasive should, in making any direct appeal to the emotions, give only the essential and striking features of that which moves him or is, when pictured, to move his audience. An excellent illustration of this suggestion is Callapine's appeal in *Tamburlaine* to his keeper to flee with him:—

“ Then shalt thou see a hundred kings and more,  
Upon their knees, all bid me welcome home.  
Amongst so many crowns of burnished gold,  
Choose which thou wilt, all are at thy command:  
A thousand galleys, manned with Christian slaves,  
I freely give thee, which shall cut the Straits,  
And bring armadoes from the coasts of Spain,  
Fraughted with gold of rich America:  
The Grecian virgins shall attend on thee,  
Skillful in music and in amorous lays:  
With naked negroes shall thy coach be drawn,  
And, as thou rid'st in triumph through the streets,  
The pavement underneath thy chariot wheels  
With Turkey-carpets shall be covered,  
And cloth of arras hung about the walls,  
Fit objects for thy princely eye to pierce:  
A hundred bassoes, cloth'd in crimson silk,



Shall ride before thee on barbarian steeds ;  
And, when thou goest, a golden canopy  
Enchas'd with precious stones, which shine as bright  
As that fair veil that covers all the world,  
When Phoebus, leaping from his hemisphere,  
Descendeth downward to th' Antipodes : —  
And more than this, for all I cannot tell."<sup>1</sup>

#### A METHOD OF GAINING BREVITY AND VIVIDNESS.

Both brevity and vividness are sometimes gained by leaving a description incomplete or giving only just enough details to set the imaginations of the audience to work. This is very effective if a speaker or writer is sure that his audience will complete the description, fill in the details, just as he desires. Unless he can be sure of this, it is naturally a risky method. Clearly it is safer for the speaker, who can watch the faces of his audience and see whether they show a recognition of the full significance of the incomplete description, the few details, than it is for the writer, who never sees his audience. A very successful use of this method is shown in the peroration of Lord Erskine's speech in behalf of Lord George Gordon, quoted p. 331. Erskine did not develop any appeals to the emotions of his hearers, but simply suggested to their imaginations what in the case of Gordon might readily be developed into such appeals. He knew from the look of his hearers that they were sufficiently in sympathy with him for their imaginations to fill out his suggestions. The advantages of this method were pointed out on p. 331.

<sup>1</sup> *The Old Dramatists*, Marlowe, p. 46. A. Dyce. Routledge.

## THE VALUE IN PERSUASION OF CONCRETENESS.

*The greatest aid to vividness in persuasion is concreteness of statement.* All that was said on p. 301 of the great value in evidence of such concreteness applies equally well here. Anecdotes, examples, analogies, illustrations of all kinds, are indispensable in excitation. This concreteness of statement is a marked characteristic of the addresses of the great "revivalists" of the last twenty years. Any one who has ever heard Mr. Moody speak knows how much of his power lies in the emotion caused by his vivid stories, dramatic illustrations of his meaning. One of the most effective attacks of John B. Gough on the drink habit was his comparison of it with two men idly floating in a boat far above the falls of Niagara. When some one calls from the shore to remind them that the rapids and the cataract lie below them, they pay no attention. They are too sure of their safe position to heed any such cries. The current, however, though they do not know it, is bearing them steadily toward the falls. Soon another cry comes from the bank: "Look out, look out, the rapids are below you." The two men, busied with chat and laughter, look up only to make some jesting reply, and drift on. Now the cry comes more sharply from the shore, and the men seeing the anxiety of him who hails them pull a little on their oars, but not with their full strength, for they are sure that they can turn back if they wish. Once more comes the cry, this time in tones of great terror. The men, startled, look about them: they see that they have drifted, they press upon the oars, but all in vain. The boat speeds on. They struggle madly, wasting half their strength in their in-

creasing terror. All the while the cries of warning and suggestions for help come to them from the shore, yet all their struggling is in vain. They realized their danger too late. Struggling, screaming with terror, they are borne into the rapids and over the falls. Just in this way do men fall victims to the drink habit.

After the battle of Bull Run, conflicting rumors steadily poured into New York city as to the real condition, the true position of the Northern army, and the effect of the defeat on the government at Washington. A great crowd that in its anxiety, its uncertainty, threatened at any moment to become a mob, gathered in front of the Astor House. General Garfield was urged to try to quiet this crowd. Stepping out on a balcony of the Astor House, he stood quietly, with raised hat, till the crowd of men, catching sight of him one after another and hushing their neighbors to listen, were still enough for him to be heard. Then he said: "God reigns, and the Government at Washington still lives" — an oration in nine words. It gave the anxious crowd just the information which at the moment was vital, — that there was still a government at Washington ; and it supplied them with a motive of the highest kind for action, — belief that the outcome must be for the best even though the present be dark, since all was in God's hands. All this he did in nine words because he knew intuitively the value of the concrete.

#### THE THIRD ESSENTIAL IN ALL APPEALS TO THE EMOTION.

It is, above all, essential in excitation so to manage the material that it shall not arouse any emotions which may counteract those which the speaker desires to bring into

action. Note how skillfully Demosthenes avoided this difficulty in the following extract from the *First Philippic*. He wished to make his audience feel that Philip owed his success not so much to his own genius as to their past indolence. In order to make this clear, he must show how, step by step, Philip had gained his power, and the proportions to which it had grown. But he must be on his guard constantly lest insistence on this growing greatness and vast power should so terrify the Athenians that they should say: "Remonstrance is useless. Let us make the best terms we can since we have thrown away our chances":—

"First I say, you must not despond, Athenians, under your present circumstances, wretched as they are, for that which is worst in them as regards the past, is best for the future. What do I mean? That your affairs are amiss, men of Athens, because you do nothing which is needful; if, notwithstanding you performed your duties, it were the same, there would be no hope of amendment.

"Consider next, what you know by report, and men of experience remember; how vast a power the Lacedaemonians had not long ago, yet how nobly and becomingly you consulted the dignity of Athens, and undertook the war against them for the rights of Greece. Why do I mention this? To show and convince you, Athenians, that nothing, if you take precaution, is to be feared, nothing, if you are negligent, goes as you desire. Take for examples the strength of the Lacedaemonians then, which you overcame by attention to your duties, and the insolence of this man now, by which through neglect of our interests we are confounded. But if any among you, Athenians, deem Philip hard to be conquered, looking at the magnitude of his existing power, and the loss by us of all our strongholds, they reason rightly, but should reflect, that once we held Pydna

and Potidaea and Methone and all the region round about as our own, and many of the nations now leagued with him were independent and free, and preferred our friendship to his. Had Philip then taken it into his head, that it was difficult to contend with Athens, when she had so many fortresses to infest his country, and he was destitute of allies, nothing that he has accomplished would he have undertaken, and never would he have acquired so large a dominion. But he saw well, Athenians, that all these places are the open prizes of war, that the possessions of the absent naturally belong to the present, those of the remiss to them that will venture and toil. Acting on such principle, he has won everything and keeps it, either by way of conquest, or by friendly attachment and alliance; for all men will side with and respect those, whom they see prepared and willing to make proper exertion. If you, Athenians, will adopt this principle now, though you did not before, and every man, where he can and ought to give his service to the state, be ready to give it without excuse, the wealthy to contribute, the able-bodied to enlist; in a word, plainly, if you will become your own masters, and cease each expecting to do nothing himself, while his neighbor does everything for him, you shall then with heaven's permission recover your own, and get back what has been frittered away, and chastise Philip. Do not imagine, that his empire is everlastingly secured to him as a god. There are who hate and fear and envy him, Athenians, even among those who seem most friendly; and all feelings that are in other men belong, we may assume, to his confederates. But now they are all cowed, having no refuge through your tardiness and indolence, which I say you must abandon forthwith. For you see, Athenians, the case, to what pitch of arrogance the man has advanced, who leaves you not even the choice of action or inaction, but threatens and uses (they say) outrageous language, and, unable to rest in possession of his conquests, continually widens their circle, and, while we dally and delay, throws his net all around us. When then, Athenians,

when will ye act as becomes you? In what event? In that of necessity I suppose. And how should we regard the events happening now? Methinks, to freemen the strongest necessity is the disgrace of their condition. Or tell me, do ye like walking about and asking one another: — Is there any news? Why, could there be greater news than a man of Macedonia subduing Athenians, and directing the affairs of Greece? Is Philip dead? No, but he is sick. And what matters it to you? Should anything befall this man, you will soon create another Philip, if you attend to business thus. For even he has been exalted not so much by his own strength, as by our negligence.”<sup>1</sup>

#### THE ORDER IN PERSUASION.

The exact nature of the task a speaker or writer sets himself will, of course, affect the order of his persuasive work. When a man wishes simply to persuade people to continue in a course of action, or to carry out a purpose already formed, he may arrange his persuasive work in a climactic order, for even a very slight amount of persuasion will probably move his audience in the right direction, and he will leave them stirred to immediate action by his final effort. If, however, he wishes to urge men to give up doing something to which they have become accustomed, or a purpose already well established in their minds, he must naturally, as in the case of refuting long-established ideas, bring forward his strongest material first. When he has stirred his audience by his first strong appeal he can maintain his effect with other appeals, each of which would not have been strong enough, if given alone at the outset, to rouse the audience. The rules for order in persuasion are practically, then, those given for order in refutation (p. 111).

<sup>1</sup> Demosthenes, *Olynthiacs and Philippics*, pp. 61–63. Kennedy.

## PERSUASION ARISING FROM QUALITIES IN THE SPEAKER OR WRITER.

Without certain qualities no man can hope for lasting success in Persuasion. *It is indispensable in Persuasion that a speaker or writer should be sincere, tactful, skillful.* The probable failure of the man who feels emotion readily, and yields to it completely, comes, as was pointed out on p. 358, from a doubt of his sincerity. For a time the demagogue working for his own ends, the reformer who seeks his own advancement, the preacher who is really ambitious and self-seeking, may palm themselves off on their audience for better men than they are, but sooner or later their insincerity becomes known. Never afterwards, with most men, will any of the old-time power over audiences be theirs. Never should anything in voice, gesture, bearing, or diction suggest to an audience that the speaker is thinking more of himself, or his presentation of his subject, than of the message he has to convey. This is the reason why elegance of diction is sometimes dangerous. Rough-and-ready men, who have met together to listen to an address on a subject that cries for redress, may feel that he who has plainly stayed to select and to polish his phrases cannot recognize as he should the deep significance of the subject he is treating. To them a few rough, ill-selected, but sincere words, straight from the heart of a speaker who is stirred through and through with the importance of his words, will be far more valuable and moving. Avoid, of course, artificiality of style. There is much that is wise, much that is really thoughtful in John Lyly's Elizabethan novel, *Euphues, The Anatomie of Wit*, but it is hard to give serious consideration to the

thought of these euphuistic sentences, which have been filed and polished into conformity to a style so artificial that it seems almost impossible that the thought could have been at all important to the writer. The vocabulary of a speaker should be rich, but his phrases simple. He should find the expression that is forcible because it is clear and picturesque, not because it is merely unusual or fantastic. Avoid anything that suggests physical or intellectual posing.

Much is said nowadays of personal magnetism in speakers or actors. Doubtless there is an inborn quality in some men which, the moment they appear on the stage or the platform, establishes a bond of sympathy between them and their audiences, but it would be difficult to determine how much of this is inborn and how much comes from the self-reliance of the speaker, the confidence of the audience, caused by a speaker's thorough knowledge of his subject and of the arts of conviction and persuasion, his evident thorough absorption in his subject, and his reputation for a sincere treatment of whatever he touches. Certainly, unless the apparent belief of a man in the truth of his cause is genuine he cannot often appeal to his audience with an air of complete expectance of the success of his plea. Yet he who calls hesitatingly on his hearers, who seems to feel that they may not respond, will never take them with him. Even the man who is able to assume this air when he has not the feeling is likely to be detected in his fraud. An experience of Lord Erskine's illustrates these statements. In his defense of Lord George Gordon he quoted his client's words to the King: "The multitude pretend to be perpetrating these acts under the authority of the Protestant petition ; I assure



your majesty they are not the Protestant Association, and I shall be glad to be of any service in suppressing them," and then, carried out of himself by the strength of his feelings, he cried: "I say, *by God*, that man is a ruffian who shall after this presume to build upon such honest, artless conduct, as an evidence of guilt." According to Professor Goodrich, "The effect produced on the jury and spectators by this sudden burst of feeling, is represented by eye-witnesses to have been such as to baffle all powers of description. It was wholly unpremeditated, the instantaneous result of that sympathy which exists between a successful speaker and his audience. In uttering this appeal to his Maker, Mr. Erskine's tone was one of awe and deep reverence, without the slightest approach toward the profane use of the words, but giving them all the solemnity of a judicial oath. The magic of his eye, gesture, and countenance beaming with emotion, completed the impression, and made it irresistible. It was a thing which a man could do but once in his life. Mr. Erskine attempted it again in the House of Commons, and utterly failed."<sup>1</sup> That second attempt was a failure because it was not wholly the result of the emotion of the moment, absolutely sincere, but was a premeditated dramatic effect. The audience felt this, and the desired effect was lost.

A student should remember, also, how important in persuasion is a man's reputation. Though there be no change of party, no previously expressed views that contradict those developed by the speaker, and so throw doubt on his sincerity, the man may be noted as a humorist. Unless his subject is such that he can persuade through laughter his work will be hard. The

<sup>1</sup> *Specimens of Argumentation* (Modern), p. 143, and note.

audience is accustomed to laugh with or at him and will find it difficult to believe that he is really in earnest in serious work. Sydney Smith used to complain that his audience smiled at parts of his sermons as witty where nothing was farther from his thoughts than to provide amusement.

One has only to study the introductions, the perorations of the great speeches from Demosthenes to Webster, to see how earnestly, how insistently the orators have impressed on their audiences their sincerity in their work : one has but to study the wrecked careers among orators to realize that sincerity is the chief essential in persuasion. Without it all else may go for naught.

#### SUMMARY.

In Persuasion, then, a man should avoid anything that means or suggests self-consciousness. He should feel the subject so intensely that the desire to share with his audience his ideas and his feelings in regard to it dominates every other idea. He should regard himself simply as an instrument for transmitting the important idea to the audience in question, yet a thinking instrument that takes advantage of everything in its favor, skillfully does away with what is not, and changes its methods as the needs of the moment demand. Such absorption in a subject is possible only for the speaker or writer who sincerely believes what he is saying.

#### THE VALUE OF TACT IN PERSUASION.

Tact is another great requisite — the ability to do or to say the right thing at the right moment, or, perhaps better, to avoid doing or saying the wrong thing. It

implies self-control, absence of self-assertion, constant study of men and manners, and a readiness to do or say that which shall put other men at their ease. Tact marks the speeches of Demosthenes ; it is lacking in the speech of Brutus over Caesar's body ; it was one of the chief causes of the success of Beecher at Liverpool.

#### THE VALUE OF SKILL IN PERSUASION.

Skill, the third great requisite, is broadly inclusive : it signifies a knowledge of all the means and methods that go to make effective persuasion, and an intelligent use of them that is able to distinguish between the ninety-nine cases when the rule given applies and the hundredth when it may best be broken. This ability is to be gained only by constant, thoughtful, critical application to audiences of very different kinds of the suggestions as to persuasion.

#### A DIFFERENCE BETWEEN CONVICTION AND PERSUASION.

Throughout the first six chapters of this book it was possible, in making suggestions as to Argumentation, to address rather the writer than the speaker. This was true because the word *writer* may include, as far as convincingness is concerned, any speaker who, before he meets his audience, writes out his arguments. These men must obey the same laws in regard to analysis, evidence, and rhetoric. Even the speaker who does not write out, but simply plans his work in his mind, must either in this preparation or in the delivery obey all these rules. The man called on to speak extemporaneously is, of course, at a disadvantage, since he has no time in which

to plan his work, and unless he has previously carefully trained himself in methods of conviction he may do poorly. But the laws he should regard are the same. When, however, an attempt is made to explain by what means an audience may be persuaded, it is necessary to address the speaker rather than the writer. This is true because a man, in order to persuade to the best advantage, must be face to face with his audience. The man who prints his argument addresses an audience he never sees, and cannot, therefore, apply to it those suggestions as to Persuasion which require that the audience and the arguer should see each other. No man who is to speak to an audience can give his final persuasive touches to his speech until he is face to face with his audience and sees what is its mood toward him and his subject, whether it is just the audience he expected to find. If the conditions attending his speech are not just those he expected, he must change the persuasive methods which he had planned to use. If, before any audience, he clings to the persuasive methods he had prepared he may lose admirable opportunities which some unexpected action on their part may offer. The conditions surrounding a writer, his comparative leisure for developing his work, his opportunities for planning carefully and readjusting his work, are those favorable for the study of convincingness, but the conditions of the speaker, face to face with his audience, are the best for persuasive work. This very fact is the justification of the plan of this book. By study in written work of the rules of Conviction a beginner in Argumentation gains most quickly the power to convince his fellow-men, and he is, therefore, advised to write first with only convincingness in view. Even as he gains this he learns

the persuasiveness that may come from the nature of the subject itself, and from a good rhetorical treatment of it. When he has mastered these matters he can try his hand at writing arguments on the same subject fitted for two widely differing audiences, whose characteristics he himself knows accurately or has had carefully explained to him. Such work will give him a growing skill in the application of the suggestions already given as to the third and fourth sources of Persuasion. These pieces of Argumentation he should, if possible, deliver to the audiences for which they are planned, that he may see the success or failure of his persuasive work, and may learn to use those suggestions for persuasiveness which can be applied only when the speaker is face to face with his audience. Certainly, only by constant speaking before audiences of very different kinds, and careful consideration of the successes and the failures made, can a student become a master of Persuasion. He will, however, save himself many mortifying experiences, many failures, if by the method suggested, by writing out his arguments, he learns to handle Conviction well, and comes to understand the rudiments of Persuasion.

## CHAPTER VIII.

### SOME FINAL SUGGESTIONS.

A BEGINNER in Argumentation who has carefully read and applied the suggestions given in this book should understand clearly what Conviction and Persuasion are. He should, too, when he has a question to discuss know (1) what the question means ; (2) what he believes about it, and why ; (3) how he is going to state his case so as to (*a*) convince and (*b*) persuade. Chapter II. should have taught him (1); Chapters III. and IV. and V. should have helped him to understand (2); Chapters III., V. and VI. should have settled (3) (*a*) for him ; and Chapters VI. and VII. should have made (3) (*b*) clear to him. He should see why it is a very arbitrary proceeding when rhetoricians separate Conviction and Persuasion in treating Argumentation, since what leads to one may, in some cases, as was pointed out on pp. 345-6, lead to the other. He should understand why, though the rules that produce convincingness may be learned in a short time, study of Persuasion is a life-work. From the chapter on Evidence he should have learned the relation of Logic to Argumentation ; from the same chapter the importance of evidence in all such work ; from Chapters III. and VI., the work of Rhetoric in Argumentation ; and from the last two chapters the work of Persuasion. If he does understand all this, he is able to do good work in Argumentation that will steadily grow better.

## THREE FINAL SUGGESTIONS.

Two or three final suggestions of a general kind may be helpful. *A student should choose for his work in forensics only subjects in which he is really interested.* On other subjects his work is sure to be perfunctory, and because of his lack of real interest in his work his attempts at persuasion will lack sincerity.

*A college student should, if possible, find his topics in courses which he has taken,* for the subject-matter of such questions will not force him to do so much research work as topics entirely fresh to the student would demand. As a result he can give nearly all his attention to the preparation of his matter.

*Above all, a beginner in Argumentation should not let himself be led astray by that "ignis fatuus" of the weary or lazy student, the idea that because in his first careful study of the rules of any art he finds his work hampered by them, he is losing his individuality and may even work less well after his study than before.* Every art has its laws, and they must be mastered by any man who wishes to excel in the particular art. There is undoubtedly a stage in learning and applying such laws when, for a time, the student feels hampered by warnings for and against this or that, and longs for his old freedom of movement which certainly brought him larger results. Gradually, however, as the student works, the laws that were at first so hampering become a matter of course. A writer, for instance, comes to do instinctively what at first he did with much labor. When this stage in his work is reached, if he compares his result with the results of his labor before he studied at all, he will see his great gain. Cer-

tainly, only when a man has so thoroughly learned his art that he seems to work instinctively in the right way, can he be said to be master of it. None of the great orators has gained his mastery without infinite pains. The beginner in Argumentation, to whom his struggle with the rudimentary laws and the suggestions for Persuasion and Conviction seem dry and unnecessary, should ponder these words of Demosthenes:—

“It seems to me far more natural that a man engaged in composing political discourses, unperishable memorials of his power, should neglect not even the smallest detail, than that the generation of painters and sculptors, who are darkly showing forth their manual tact and toil in corruptible material, should exhaust the refinements of their art on the veins, on the feathers, on the down of the lip, and the like niceties.”<sup>1</sup>

<sup>1</sup> *Attic Orators*, vol. I, p. lxxv. Jebb.



## APPENDIX.

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The following briefs may be useful for criticism by students when a class is studying Brief-Drawing and Evidence.

### *Brief 1.*

#### SHOULD CAPITAL PUNISHMENT BE ABOLISHED?

##### INTRODUCTION.

I. By capital punishment is meant punishment by death, by any method, for murder.

II. By murder is meant the willful and malicious destruction of human life.

##### BRIEF PROPER.

I. Capital punishment should not be abolished, for<sup>1</sup>

*A.* It makes the conviction of the innocent less likely, for

1. When death is the penalty it leads to the most exact and critical examination of evidence.
2. It gives to the accused the full benefit of every doubt.
3. It lays the strongest hold on the conscience and sympathy of both court and witnesses.

*B.* The argument that capital punishment should be abolished on account of the fallibility of human courts is inconsistent, for

<sup>1</sup> *New Englander*, vol. I, p. 28.

1. All laws are administered by fallible human courts, and by this reasoning it would follow that all laws ought to be abolished.
- C. The argument that capital punishment should be abolished is unreasonable, for
  1. All severe penalties, such as life imprisonment, are without a remedy, for
    - (a) Even though the criminal is pardoned finally, the best years of his life have been wasted.
  2. It is not the object of courts of justice to inflict remediable penalties.
- D. The lives of thousands are preserved by the execution of a few, for<sup>1</sup>
  1. By the destruction of leaders of violent mobs, it discourages the tendency to instigate such mobs.
  2. It suppresses the insurrection of anarchists.
- E. The statement that capital punishment is the punishing of one murder by the commission of another is untrue, for
  1. Punishment by death is not attended by malicious and revengeful designs, for
    - (a) To say that it is, is to deny all law and all forms of justice.
- F. Places where the law of capital punishment does not exist become a refuge for murderers, for
  1. Criminals desire the least possible punishment for their crimes, as is shown by the care they take to escape detection, so would naturally plan to commit crimes in a place where the least penalty is inflicted.
  2. Authentic instances exist of murderers deliberately decoying their victims into jurisdictions where the death penalty does not prevail.<sup>2</sup>

<sup>1</sup> *New Englander*, vol. I, p. 28.

<sup>2</sup> *Forum*, vol. III, p. 381.

- G. The fact that some jurors fail to bring in a verdict of guilty for murder when capital punishment is the penalty should not be considered, for
1. The poor administration of a law should not condemn the law itself.
- H. The objection that there is no time for repentance for the criminal does not hold, for
1. Sufficient time is given between the arrest, conviction and final death for every religious duty.<sup>1</sup>
  2. The disposition to delay repentance will be the same in prison as out.
  3. The shorter the time, and the greater and more pressing the need for repentance, the sooner is the criminal likely to repent.
- I. Life imprisonment is an inadequate substitute, for
1. There is no higher penalty when the crime has been repeated by
    - (a) Murdering prison guards and warden.
  2. It gives opportunities for escape, for
    - (a) Means are furnished by coöperative work by
      - 1) Supplying tools, 2) causing the removal of criminals from their cells to the prison work-house.
    - (b) There is an opportunity for criminals to make plans by communication with each other.
  3. The possibilities for pardon are very great, for
    - (a) Statistics prove that within seven years a man has sixty-three chances out of one hundred.<sup>2</sup>
- J. It is the best means for protecting the government, for
1. It is a safeguard against the populace taking the matter of life and death into their own hands by
    - (a) Private vengeance.
    - (b) Lynching.

<sup>1</sup> *New Englander*, vol. I, p. 28.

<sup>2</sup> *Nation*, 16, 193.

2. It is a safeguard against the murder of those in public office by
  - (a) Political aspirants or their accomplices.
  - (b) Anarchists.
  - (c) Men like Booth, Guiteau, and the murderer of Carter Harrison.
- K. Government has a right to maintain its own existence and authority by the best means, even at the expense of life, for<sup>1</sup>
  1. It is a part of the social compact in which the state originated, for
    - (a) A social compact necessarily implies a surrender to society of all the rights and powers which are indispensable to its own preservation.
- L. It is the most effective preventive of crime, for
  1. It produces more horror and dread of the crime of murder than any other form of punishment.
  2. A man's life is his most important possession.
  3. Confessions of convicted criminals show that they would not have committed the crime had they thought that they would suffer death.<sup>2</sup>
- M. Where it has been abolished murder has increased, for
  1. This has been proved by statistics to be the case in
    - (a) Rhode Island.
    - (b) Maine.
    - (c) Belgium.
  2. This is shown by the fact that in some places where it had been abolished it has been restored, as in
    - (a) Tuscany.
    - (b) Michigan.
    - (c) Parts of Switzerland.

<sup>1</sup> *New Englander*, vol. III, p. 562.

<sup>2</sup> *Ibid.*, vol. I, p. 28.

## CONCLUSION.

Since capital punishment is the best security against the conviction of the innocent; since by it thousands of lives are preserved; since places where it does not exist become a refuge for murderers; since life imprisonment is an inadequate substitute for it; since it is the best means for protecting the Government; since furthermore it is the most effectual deterrent from crime, and since where it has been abolished murder has increased, capital punishment should not be abolished.

*Brief II.*

## SHOULD CAPITAL PUNISHMENT BE ABOLISHED ?

## INTRODUCTION.

I. In former times a long category of crimes was punished by the infliction of death, usually by hanging, on the guilty. As time went on, one after another of these crimes were expunged from the national code, till at present murder is, generally speaking, the only crime punished with loss of life. The question now arises, "Why not abolish capital punishment for murder?"

II. Capital punishment is punishment involving the forfeiture of life, inflicted on a person for a crime, by the authority to which the offender is subject.

III. Three theories concerning the design of punishment are held.

- A. Reformation of the criminal.
- B. Retribution.
- C. Prevention.

## BRIEF PROPER.

- I. Capital punishment should be abolished, for
  - A. It has done irrevocable wrong, for

1. Inequality and unfairness exist in the administration of justice, for
  - (a) In some places criminals are much better hanged than in others, for
    - 1' Hanging in the country is done by amateurs.
  - (b) The same punishment is inflicted on every person who commits murder, for
    - 1' No allowance is made for the kind of murder perpetrated.
  - (c) A certain class of criminals is more easily put to death than others, for
    - 1' It is hard to hang a person who holds a high social position in the community.
    - 2' It is more difficult to put to death a person of wealth than a person of little or no means.
  - (d) A man hanged in one part of the country escapes in another, for
    - 1' Certain parts of the country have abolished the death penalty.
    - 2' The farther west you go the harder it is to condemn.
  - (e) Murderers are hanged at certain times who would not be hanged at others, for
    - 1' Much depends on the governor, for
      - (a) If he is a soft, weak, conceited, heartless man his judgment is apt to be partial.
    - 2' When the murder is general and people are alarmed for their safety, the criminal will have few chances to escape, but
    - 3' If some time has elapsed between the crime and the conviction and the community is unconscious of insecurity he will have many hopes of escaping the severe penalty.
    - 4' It is always more difficult to convict after an execution than before, for

- (a) Experience proves it.
- (f) The laws of the land are constantly disregarded and acts performed which they neither recognize nor allow, for
  - 1' Although they state that every murderer should forfeit his life, yet
    - (a) Many guilty men are inflicted with a lighter punishment or pardoned.<sup>1</sup>
    - 2' Of two men found guilty of a capital offense, one is violently executed, the other is allowed to escape, because
      - (a) The sympathies, desires, and excited passions of the public are allowed to control, if not defy the carrying out of the law.<sup>2</sup>
  - (g) The innocent are frequently put to death with the guilty, and
  - (h) Death destroys the only proof of innocence.
  - (i) Though it may be argued that other punishments involve the innocent with the guilty, yet
    - (a) The dead can receive no reparation.
- 2. Offenses once capital are no longer punished with death.<sup>3</sup>

## REFUTATION.

- 3. The assertion that capital punishment is a universal necessity cannot be proved, for
  - (a) Its advocates base their assertion merely on their opinion of what is best for society, for
    - 1' The fear of change of punishment is associated with an idea of certain ruin whenever the change shall take place.

<sup>1</sup> *Westminster Review*, vol. 17, p. 57.

<sup>2</sup> *North American Review*, vol. 62, p. 52.

<sup>3</sup> *Ibid.*, vol. 62, p. 48.

- (b) A mere opinion cannot define law and duty in the case of life and death.<sup>1</sup>
- (c) They cannot rely on the principles of retaliation, for
  - 1' The principle of retaliation is forbidden and disclaimed.<sup>2</sup>
- (d) They cannot rely on the principle of revenge, for
  - 1' All purpose of revenge is indignantly disowned.
- (e) They cannot rely on the principle of self-defense, for
  - 1' The right of taking life depends on the emergency.
  - 2' It has not lessened the number of murders.
- 4. The assertion that capital punishment is sanctioned by divine authority cannot be supported, for
  - (a) Passages in the Bible which seem to uphold this theory are capable of different interpretations, for
    - 1' The word *shall* in Genesis, ninth chapter, sixth verse, on which the whole scriptural argument depends, can by permission of the Hebrew and English language be changed to *will* and so express simply the great retributive law of God's providence.<sup>3</sup>
    - 2' The Hebrew future does not always stand for the imperative.
  - (b) The Mosaic code was made for the Hebrews and is not binding on other nations.
  - (c) There are other passages of equal importance that assert the contrary.<sup>4</sup>

<sup>1</sup> *North American Review*, vol. 62, p. 48.

<sup>2</sup> Matthew 5 : 39.

<sup>3</sup> *North American Review*, vol. 62, p. 44.

<sup>4</sup> Genesis 9 : 14, Exodus 20 : 13.



- (d) It is contrary to the whole spirit of Christianity, for
    - 1' The supreme rule is to return good for evil.
  - (e) The example of Christ does not advocate it, for
    - 1' He spared many who were guilty of murder.<sup>1</sup>
  - (f) The Jewish penalties and retaliations which comprised originally the very law of life for life, have been repealed by Christ.
- B.* Capital punishment fails to support any one of the three theories concerning the design of punishment, for
1. Though it has been asserted that the only legitimate design of punishment should be to reform the criminal, yet,
    - a.* Capital punishment does not reform the criminal, for
      - 1' Death cuts him off from all further opportunities to live a better life.
  2. Though it had been asserted that the design of punishment should be to retribute the guilty person for the crime, yet
    - a.* Capital punishment does not punish the criminal as he deserves, for
      - (1') The most desperate and hardened criminal is insensitive to the suffering he has to endure and to the ignominy, for
        - (a) He does not care for his life.
  3. Though it has been asserted that the design of punishment should be to protect society from other crimes, yet
    - a.* Capital punishment fails to protect society, because
      - 1' It does not prevent murder, for

<sup>1</sup> Genesis 4 : 15, Exodus 2 : 12.

- (a) Although it is said that the fear of the gallows prevents crime, yet
  - 1'' The desperate murderer does not calculate the severe penalty of his crime, and
  - 2'' If he did calculate the result, he cannot be blind to the fact that jurors are exceptionally difficult to convince in cases of murder when the evidence is circumstantial.
- (b) Though the objection has been raised that murders are committed in secret, for fear of death, yet
  - 1' Murders are committed in secret in places where the death penalty has been abolished.
- (c) The sight of executions has not been a warning, for
  - 1' It is demoralizing in nature, for
    - (a) It is barbarous.
    - (b) There is always more or less savage exultation.<sup>1</sup>
    - (c) Facts prove that a large number of criminals condemned for capital offenses have attended executions.<sup>2</sup>
  - 2' It has been abolished with advantage to society, for
    - a. In certain parts of countries where the death penalty has been abolished, with one exception, a Swiss canton, murders have not increased,<sup>3</sup> and
    - b. In some instances murders have been known to decrease.<sup>4</sup>

<sup>1</sup> *Westminster Review*, vol. 81, p. 412.

<sup>2</sup> *Ibid.*, vol. 81, p. 412.

<sup>3</sup> *Ibid.*, vol. 91, p. 433.

<sup>4</sup> *North American Review*, vol. 62, pp. 66, 67.

## CONCLUSION.

Since, therefore, we have shown that capital punishment has done irrevocable wrong, and that it does not answer any of the purposes of a good punishment, we conclude that capital punishment should be abolished.

*Brief III.*SHOULD THE STUDENTS OF WELLESLEY COLLEGE HAVE  
SELF-GOVERNMENT ?

## A. INTRODUCTION.

- I. The question arises since,
  - a. Some colleges are trying this method.
  - b. There is a tendency at Wellesley towards this method of government.
  - c. There is a strong feeling among the students in favor of its adoption.
- II. Use of term self-government.

This means that each student shall govern herself according to her good judgment, and shall work in coöperation with the faculty for the best interests of herself, her fellow-students and the institution.

## III. PROPOSITION.

The students of Wellesley College should have self-government.

## B. PROOF.

To adopt this method of self-government would

- I. Benefit the college, as an institution, for
  - a. It would give it the greatest strength, since
    - i. It would give more unity. "In unity is strength."
      - (a) Faculty and students united by

- (1) Same aim : The greatest good of college and students.
- (2) Increase of mutual confidence, for
  - (a') Without unity between faculty and students there is lack of confidence. See state of confidence between faculty and students at Laselle Seminary.
  - (b') Trust of students by faculty underlies this government.
  - (c') The students appreciate the trust.
  - (d') Students and faculty would consult each other on important matters.
- b. It is the only just method of government, since
  - 1. All would share in government, and "legislation without representation is tyranny"; see
    - (a) Attitude of English towards this.
    - (b) Attitude of Americans towards it.
- II. Benefit the students.
  - a. In spite of the objection that relaxation of arbitrary restraint of students would tend to cause the students to act in an unbecoming or imprudent manner.
    - 1. Such an objection would be granted in a few cases, but not for the most part, since
      - (a) Such action would be restrained by increased self-respect of students.
      - (b) Such action would be checked by sentiment of faculty and students.
  - b. By increasing their self-reliance and prudence.
    - 1. Self-reliance and prudence most necessary to women in all spheres of life, —
      - As business women,
      - As mothers.
    - 2. Self-reliance and prudence increased by permitting the practice of them in the training-school of life, the college.

c. Since it has benefited those that have attempted it.

1. Contrast.

Laselle Seminary and Bryn Mawr.

2. Tendency toward this method in Wellesley a success.

Compare first years of college with present time.

### C. CONCLUSION.

Since self-government would benefit the institution of Wellesley College and its students, it should be adopted.

### *Brief IV.*

## IS THE PRINCIPLE OF PROHIBITION RIGHT?

### INTRODUCTION.

I. Both sides agree that

a. Use of alcoholic liquors to an excess is a curse.

II. The Principle of Prohibition, one solution of the liquor question, is to entirely suppress the traffic in alcoholic liquors as a beverage by Federal and State legislation.

III. By right is meant that which is in accordance with the fundamental laws of society and of the land.

### BRIEF PROPER.

I. The Principle of Prohibition is right, for

A. It is in accordance with social laws, for

1. The churches, which represent the principles of Christian liberty, endorse it, for

a. "It has no defensible right to exist."<sup>1</sup>

b. "The saloon license is a curse."<sup>2</sup>

<sup>1</sup> American Baptist Home Mission Society, 1890.

<sup>2</sup> Report of General Assembly of Presbyterian Church, 1892.

- c. "Liquor traffic cannot be legalized without sin."<sup>1</sup>
- 2. The statement that Prohibition would interfere with "personal liberty" is a weak excuse for not adopting the principle, for
  - a. It could be brought against every law, and individual appetite must yield to the demands of public good in regard to the sale of liquor as in other cases of restricted or suppressed traffics.
  - b. It could be brought against the existence of society, for
    - (1) The more unlimited the personal liberty, the nearer men come to the condition of the Anarchist and the savage.
- 3. It does not propose to reform moral conduct.
- 4. It is to prohibit a traffic which is injurious to others besides the consumer, for
  - a. It is injurious to the country financially, for
    - (1) The cost of the traffic, not considering the indirect cost of \$1,226,000,000, is eight times greater than the income, for
      - (a) The direct cost is \$100,000,000,
      - (b) Income from all taxes and licenses paid by the liquor traffic to the nation and the states is \$124,000,000.<sup>2</sup>
  - b. It is injurious to the country, for
    - (1) It produces that which is detrimental to its general welfare, for
      - (a) The statistics of every state show a greater amount of crime and misery attributable to the use of ardent spirits obtained at their retail liquor saloons than to any other source.
      - (b) "For we cannot shut out of view the fact, within the knowledge of all, that the public

<sup>1</sup> General Conference of Methodist Episcopal Church, 1892.

<sup>2</sup> Fernald's *Economics of Prohibition*.

health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks, nor the facts, accessible to every one, that the disorder, pauperism, and crime prevalent in the country are, in some degree at least, traceable to this evil.”<sup>1</sup>

(c) The influence of the agents of this traffic is constantly exerted against the interest of the people, and on the side of corruption, for

(1') By their organization and immense capital they have enormous power,<sup>2</sup> for

(a') “Do you deny that the liquor vote controls the situation of this State? What defeated Warner Miller and elected Governor Hill? What gave the Democratic Party its present majority in the Assembly? What elected the Tammany ticket in this city last year? Was it not the united strength of the liquor vote? . . . Regard for self-protection and preservation has consolidated the liquor dealers and forced them into an attitude in which they have become a power in politics.”<sup>3</sup>

B. It agrees with the laws of the United States, for

1. The Government has power over all forms of trade and traffic, for
  - a. The Democratic and Republican parties are incorporated according to law: and trade, and how it should be conducted, are the fundamental principles of both.
2. The barter and sale of liquor has been recognized as a subject worthy of the consideration of legislature, for

<sup>1</sup> Supreme Court of the United States in Kansas cases.

<sup>2</sup> *Prohibition Principles, Policy and Party*, p. 78.

<sup>3</sup> *New York Wine and Spirit Gazette*, April 28, 1891.

- a. All the States have passed some laws relative to this trade.
- 3. The Supreme Court of the United States has declared the full power of the State to regulate, restrain, and prohibit the traffic, for
  - a. If a State deems the retail and internal traffic of ardent spirits injurious to its citizens and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating and restraining the traffic, or from prohibiting it altogether.

#### CONCLUSION.

Since the Principle of Prohibition is supported by the laws of society and by the laws as upheld by the U. S. Supreme Court, I maintain that it is right.

#### *Brief V.*

HAVE THE NEW ENGLAND PURITANS BEEN TOO SEVERELY CENSURED FOR THEIR TREATMENT OF THE QUAKERS AND SO-CALLED WITCHES?

#### INTRODUCTION.

##### I. Explanation of terms.

- a. The Puritans were dissenters from the Church of England; the advocates, in the time of Queen Elizabeth, of a simpler form of faith and worship than that which was established by law. Those of their number who sought freedom from religious restraint by making their home in New England were especially strict and scrupulous in their religious life.<sup>1</sup> They were men who dreamed dreams

<sup>1</sup> Lodge's *Short History of the American Colonies*, vol. I, p. 435.



and saw visions, and pondered on them as communications from the Almighty. Every extraordinary event was ascribed to His intervention. Manifestations of Satan were expected and found; they believed in the noises of the air and signs in the heavens.

- b. The Quakers were a religious sect whose founder was born in England in 1624. The violent enthusiasm of these preachers gave them this name. Their excitement was so great that many of them cried out from their windows at the magistrates and ministers, and mocked the civil and religious institutions of the country.<sup>1</sup> They riotously interrupted public worship, and women, claiming divine origin for their absurd caprices, smeared their faces and went naked through the streets.
- c. Witches (so-called) were those regarded as possessing supernatural or magical power by compact with evil spirits. Witchcraft at the close of the seventeenth century appealed to a strong and generally accepted superstition; it was recognized by law, and the best evidences attainable under the circumstances were introduced.

## II. History of the question.

- a. Ever since the days of the Puritans, there has been much adverse criticism of their treatment of the Quakers and so-called witches, because
    - i. Their laws have been considered unnatural, cruel and inhuman, for
      - (a) Quakers were prohibited the country, on pain of death.
    - b. Witches, so-called, were tried, condemned, and punished.
- ## III. The question considers whether this criticism has been too severe.

<sup>1</sup> Bancroft's *History of the United States*, vol. I, p. 454.

## BRIEF PROPER.

- I. The New England Puritans have been censured too severely for their treatment of the Quakers and so-called witches, for
  - a. All communities are liable to such errors, for
    1. It was the case in England, for
      - (a) In Essex and Suffolk<sup>1</sup> 200 were indicated as afflicted and one-half of them executed.
    2. It was the case in the New York Negro Plot fifty years later.
  - b. The laws of the country furnished an example for their action, for
    1. Banishment on pain of death was common in English legislation, for
      - (a) This was an act of Elizabeth in regard to dissenters.
      - (b) John Quilburne, in 1652, was so banished by Parliament.
  - c. Their right to their territory was absolute, for
    1. They had paid dearly for the privilege of enjoying freedom of inclination in religious matters, for
      - (a) They had, for that purpose, suffered exile.
    2. Their charter gave them express power to "expulse all such persons as should, at any time, attempt or enterprise detriment or any annoyance to their plantation or its inhabitants."<sup>2</sup>
  - d. It was natural that witchcraft and the intervention of Satan should seem to them terrible, but natural afflictions, for
    1. They were surrounded by gloom in nature.<sup>3</sup>

<sup>1</sup> *North American Review*, vol. 108, p. 343.

<sup>2</sup> Palfrey's *History of the United States*, vol. 1, pp. 387, 388.

<sup>3</sup> *Idem*.

2. They were acquainted with hard toil.
3. There was universal, political and financial depression.
4. They were in constant fear of Indian attacks.
5. Their religious faith naturally made them melancholy and brooding, for
  - (a) It was severe and terrible.
- e. They acted, they believed, for self-preservation, for
  1. The infant stage of the community demanded severe measures, for
    - (a) Their civil authority needed to be recognized and maintained.
  2. Their own testimony is "For the security of the flock, we pen up the wolf, but a door is purposely left open whereby he may depart at his pleasure."
- f. They were naturally humane and sympathetic, for
  1. Their earliest laws (till 1654) did not permit imprisonment for debt unless they believed the debtor able to pay.
  2. Cruelty towards animals was a civil offense.
  3. Their sympathies extended outside of their own community, for
    - (a) Sincerest sympathy was shown for their Saxon brethren during the Thirty Years' War, for
      - (1) They held fasts and offered prayers for their success.
- g. When they believed themselves strong and confident enough, they desisted from harsh measures, for
  1. The reaction took place among the people themselves and an attempt was made at legislative restitution.<sup>1</sup>

<sup>1</sup> Lowell's *Among My Books*, p. 148.

## CONCLUSION.

Since all communities are liable to such errors, since England furnished them with examples, since what they did was perfectly lawful, since their belief in witches and the intervention of Satan was natural, since they acted, as they believed, for their self-preservation, since they were, as a rule, kind and sympathetic, and since they softened their harsh measures when they felt themselves strong enough to do so, I conclude that the New England Puritans have been censured too severely for their treatment of the Quakers and so-called witches.

*Brief VI.*

WAS CORNEILLE GUILTY OF PLAGIARISM IN WRITING  
"LE CID" ?

Proposition : He was guilty of plagiarism.

*A and B.* INTRODUCTION AND NARRATION.

Almost immediately after the publication of the *Cid*, Scuderi accused Corneille of plagiarism.

Plagiarism defined: The act of appropriating the ideas or language of another, and passing them for one's own, — literary theft. — *Walpole* (Worcester's Dictionary).

## C. PROOF.

- (a) Plot of Corneille's *Cid* is practically the same as that of De Castro's *Cid*.
  - 1. In situations.
  - 2. In characters.
- (b) Not only are the plots practically alike, but the same similarity occurs in the language of the two plays.
  - 1. There are passages where the thoughts are De Castro's thoughts expressed in slightly altered form (example).

2. There are passages that are very close translations (examples).
3. There are passages that are word-for-word translations (examples).
- (c) If Corneille had acknowledged these passages, he would, perhaps, have been free from the charge of plagiarism, but his first edition of the *Cid* contains no acknowledgment to De Castro.
- (d) He went further and said he was indebted to no one.
- (e) When one of his enemies showed the places of resemblance in the two *Cids*, then, and only then, did Corneille publicly admit that he had borrowed from De Castro.

#### D. REFUTATION.

- (a) It may be contended that Corneille's *Cid* differs in detail from that of De Castro.
  1. Granting this contention for the moment, the fact still remains that Corneille borrowed without acknowledgment: so this contention does not affect the question at issue.
  2. But this contention must fall to the ground for another reason, namely: Corneille had to conform to the rule of the three unities.

All the changes he made were made so that the *Cid* should not offend against

1. The unity of time,
2. The unity of place,
3. The unity of action,

and the changes were made only in so far as to conform to these rules.

- (a) It may be further maintained that the "Romance of the *Cid*" was common property.
- (b) This contention, also, does not affect the question at issue, as Corneille himself, in the preface to his later evidence, says that he copied from De Castro.

*E. CONCLUSION.*

(a) Summing up from *D* and *C*.

Conclusion proper. Corneille was guilty of plagiarism.

*Brief VII.*

WAS LINCOLN'S PLAN OF RECONSTRUCTION SUPERIOR TO  
THE CONGRESSIONAL PLAN?

BRIEF FOR THE AFFIRMATIVE.

*Explanatory.*

I. Lincoln's plan was in outline as follows:—

1. An oath to support the Constitution and the laws of Congress and proclamations of the Executive promulgated during the war to be administered by the military authorities to those willing to take it.
2. The State government to be reëstablished by persons taking the oath, and who should be legal voters under the State constitution in force before secession: certain persons (officers of the Confederacy, officers of the U. S. who had gone over to the Confederacy, etc.) being excepted; the numbers of those taking part in the reëstablishment being at least one-tenth the number of persons voting at the regular elections in 1860 in the respective States.
3. The governments so reconstructed to be recognized by the National Government, the houses of Congress being left to decide as to the admission of members from the reconstructed States.
4. When loyal governments had been maintained, these to be recognized at once.
5. (Suggestion merely.) The names, boundaries, subdivisions, constitutional and general codes of laws of the several States to be retained.
6. The plan not to be considered the only acceptable one.

II. The plan adopted by Congress was in outline as follows :

1. The conquered territory to be divided into Military Districts, each under the practically absolute rule of an officer of high rank, who has to hold office till the programme should be carried out.
2. Registration conducted by military rulers, and then an election of delegates to a convention ; the electors being negroes, and white men taking an oath of allegiance, provided that a majority of those thus qualified to vote should express a desire to hold a Convention ; those "disfranchised for participation in rebellion" to be denied the privilege of voting.
3. The Convention to form a constitution which should grant franchise to negroes and to "whites not disfranchised for participation in the rebellion" ; this constitution to be adopted by the same persons allowed to vote in elections to the Convention.
4. The constitution to be submitted to Congress for approval.
5. The Legislature elected under the constitution to ratify the amendment to the United States Constitution. (Fourteenth Amendment.)
6. The amendment having been ratified by a sufficient number of States to make it a part of the Constitution, the States to be admitted to representation in Congress.

### *Discussion.*

- I. Lincoln's plan was preferable in point of constitutionality.
  1. It did not imply that the States were out of the Union, whereas the Congressional plan in some respects implied that they were ; in others, that they were not.
  2. It represented the rights of the States, whereas the other violated them.

- (a) In the matter of control over franchise ;
- (b) In regard to the Fourteenth Amendment.
- 3. It assumed the right to reconstruct or "guarantee a republican form of government" to be in the Executive, while the other placed it in Congress. Considerations making for Lincoln's view are:
  - (a) That from the nature of things Executive action is necessary to carry out the clause ;
  - (b) That it is also quicker and surer.
- 4. The Congressional plan went far beyond any powers conveyed in the clause ("to guarantee a republican form," etc.)
  - (1) In the matter of franchise ;
  - (2) In violating individual rights, like trial by jury ;
  - (3) In violating the constitutional right of the State to representation ;
  - (4) In infringing the President's prerogative of pardon.
- II. Lincoln's plan was preferable as regards expediency :
  - 1. It was quicker ;
  - 2. It was less rigid and minute, and hence less oppressive ;
  - 3. It avoided or would shorten military rule ;
  - 4. It was practical (as was shown by Johnson's experiment) and its results, so far as tested, satisfactory ;
  - 5. Its purpose and spirit were broad and patriotic, those of the other plan thoroughly partisan and narrow ;
  - 6. The results of the Congressional plan as applied were such enormities of misrule as could scarcely have been exceeded by those of any other plan whatsoever.

#### MATERIAL FOR BRIEFS.

Speeches and essays from which briefs may be drawn by students in order to train them in the brief form and to show them the careful structure that underlies all good Argumentation may be found in *Specimens of Argumentation* (Modern).



H. Holt & Co. If it seems best that students, instead of passing directly from such work to briefs of their own on the somewhat difficult topics they are to consider, should have an opportunity to draw briefs of their own from material easy to handle, the following will be useful.

#### MATERIAL FOR A TRIAL BRIEF.

In the last years of the sixteenth century, a man in middle life, poor, with no attendants, appeared in Venice, asserting his claim to the throne of Portugal as Don Sebastian, its former king. Some twenty years before, young Don Sebastian, then king of Portugal, had crossed into Africa with the flower of his court and army for a crusade against the Infidels, the Moors. In the first battle, his army was routed with terrible loss, and in the confusion he disappeared. There were rumors that he had escaped and had been seen in hiding at a monastery in Portugal; there were also rumors that he was dead. As time passed all, except a very few in Portugal who still hoped, believed that he was dead. Philip II. took Portugal under his control, and it was to win supporters against the Spanish king that the claimant worked.

He said that he fled in the rout and wandered about with his followers; that because of the overwhelming nature of his defeat in this first battle of what he had believed to be a holy war, he felt a judgment of God in his defeat, and was too overcome, too disgraced, to show himself to the people. Therefore, he went to the Portuguese monastery in hiding, thinking later to reveal himself. His sense of disgrace increased, however, and he determined to do penance by fighting with his small band of followers against the Paynim in the East. He named many Eastern countries in which he had traveled and fought. After much successful fighting, finding that his feeling that his defeat had been a judgment of God grew upon him, he determined to become a hermit, and dis-

missed all of his followers. To a fellow-hermit he told his story, and this man's strong appeals aroused him to assert his rights. He gathered some servants about him, and set off for Venice to press his claims. On the road his servants robbed him of everything and deserted him.

He urged his claims with great plausibility, gaining many supporters. In meeting the opposition offered him by the friends of Philip, which amounted to something not unlike persecution, he showed much dignity and manliness, remaining throughout examinations and torture unswerving in his statement that he was the king. He told several stories of the king's youth and of his young manhood that showed an intimate knowledge of Don Sebastian's life. He spoke Portuguese with an accent, gained, he said, by speaking for twenty years the languages of the East. Don Sebastian had had marked physical characteristics, a limp, some wounds, etc. The limp and the scars the claimant showed. Some persons who had known Don Sebastian, mainly, however, ignorant people who had not known him well, recognized the claimant as the king they had seen twenty years before. (For further particulars, see biographical dictionaries.)

First determine what are the essential ideas to be proved for or against the claimant and then support these by sub-heads drawn from the evidence stated in the above account. From this material draw a brief either in support of or against the claims of this man.

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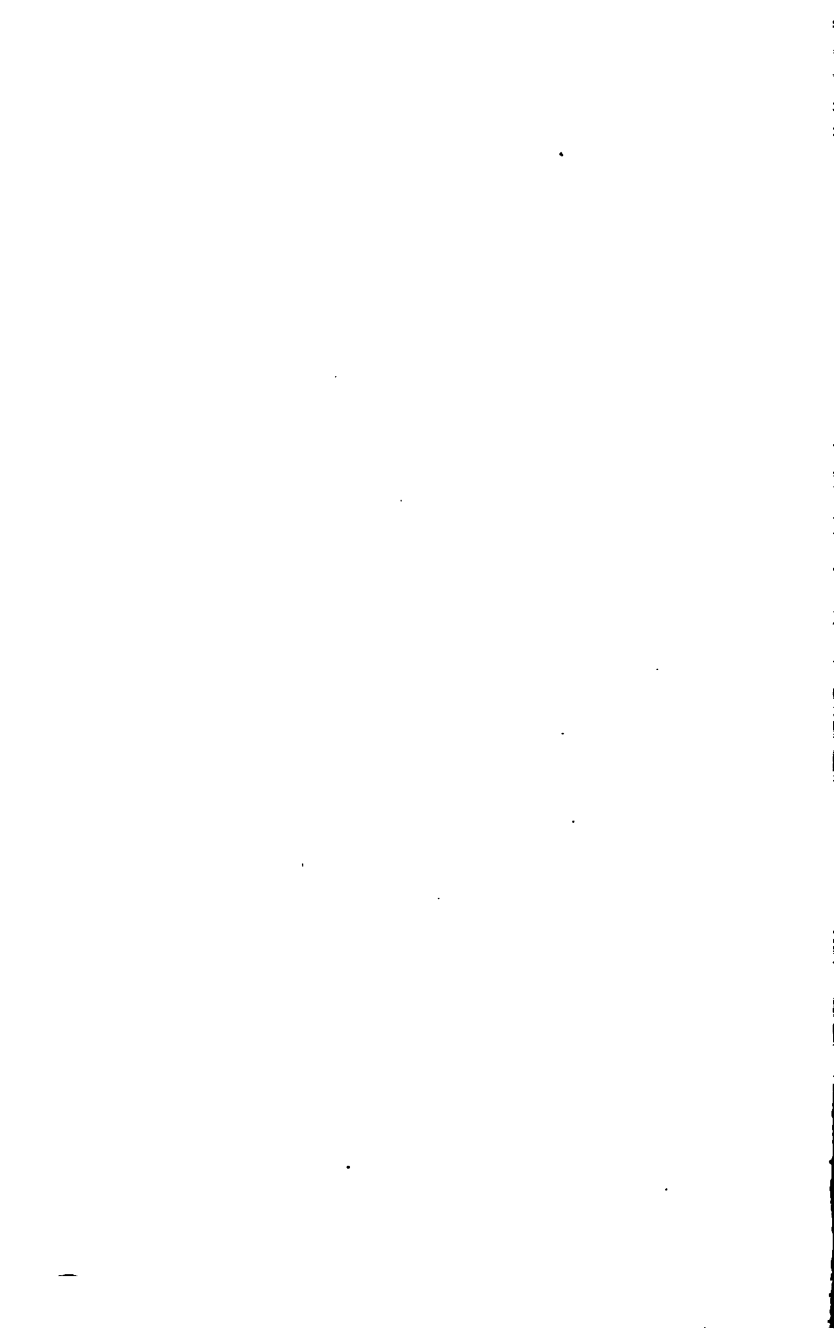
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